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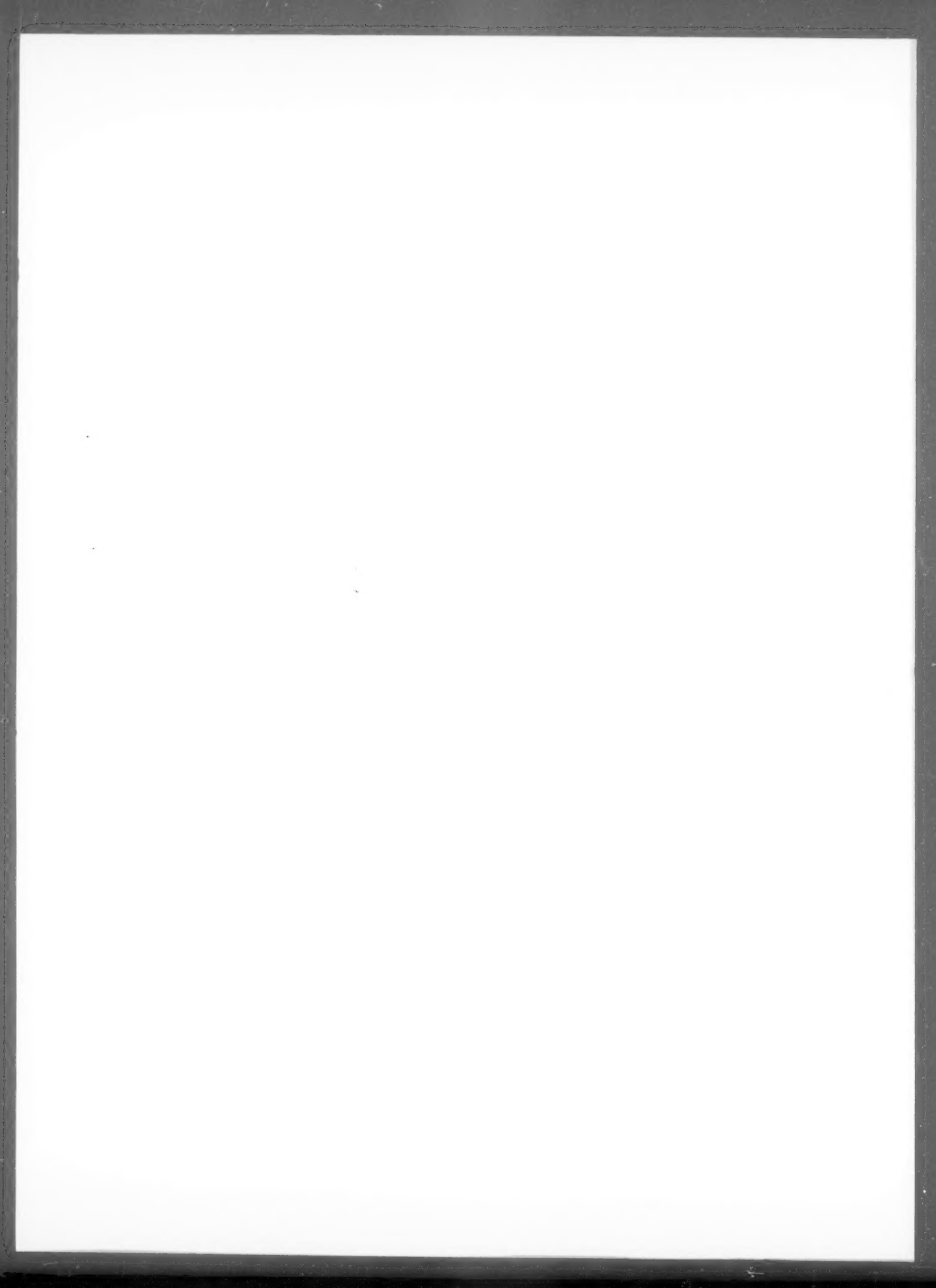
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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 98-088-3]

Asian Longhorned Beetle; Addition to Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the Asian longhorned beetle regulations by adding three areas in and around Chicago, IL, to the list of quarantined areas and restricting the interstate movement of regulated articles from the quarantined areas. The interim rule was necessary on an emergency basis to prevent the spread of the Asian longhorned beetle to noninfested areas of the United States.

EFFECTIVE DATE: The interim rule was effective on November 6, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald P. Milberg, Operations Officer, Program Support, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737-1236; (301) 734-5255; or e-mail: ron.p.milberg@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective November 6, 1998, and published in the *Federal Register* on November 13, 1998 (63 FR 63385-63388, Docket No. 98-088-1), we amended the Asian longhorned beetle (ALB) regulations in 7 CFR part 301 by adding three areas in and around Chicago, IL, to the list of quarantined areas in § 301.51-3(c) and restricting the interstate movement of regulated articles from the quarantined areas.

We solicited comments concerning the interim rule for 60 days ending January 12, 1999. We received three comments by that date. They were from a State government and environmental associations.

All of the commenters were in favor of the interim rule. However, two of the commenters suggested that the Animal and Plant Health Inspection Service (APHIS) add woodchips to the list of regulated articles for ALB because woodchips may be associated with plant pests. The commenters noted that the regulations in 7 CFR 319.40-5 regarding solid wood packing material (SWPM) from China provide for the destruction of SWPM under certain circumstances, and that the means used to destroy the SWPM must be incineration or chipping followed by incineration. The commenters said that the requirement of incineration after chipping indicates that wood chips are potential vectors of some life stages of ALB.

A science panel formed by APHIS following the discovery of ALB in the United States concluded that wood chips are not a vector of ALB, and that no life stage of ALB will survive chipping. The regulations in 7 CFR 319.40-5 were put in place not just because SWPM from China poses a risk of transporting ALB, but also because it poses a risk of transporting extremely destructive wood-boring insects of the genera *Anoplophora*, *Cerresium*, *Hesperophanes*, and *Monochamus*. It is because of these other wood-boring insects that we require incineration after chipping for SWPM from China. Based on those considerations, we do not believe it is necessary to add woodchips to the list of regulated articles for ALB. However, we will continue to inspect woodchips, and if we find that they do pose a threat of spreading ALB, we will add woodchips to the list of regulated articles for ALB.

Therefore, for the reasons given in the interim rule and in this document, we are adopting the interim rule as a final rule.

This action also affirms the information contained in the interim rule concerning Executive Orders 12372, 12866, and 12988 and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 604, we have performed a Final Regulatory Flexibility Analysis, which is set out below, regarding the economic impact of the interim rule on small entities.

This document adopts as a final rule, without change, an interim rule that amended the ALB regulations by quarantining three areas in and around Chicago, IL, and restricting the interstate movement of regulated articles from the quarantined areas. In the interim rule, we stated that we were taking those actions on an emergency basis to prevent the spread of ALB to noninfested areas of the United States.

In the interim rule, we asked for comments on the potential economic effects of the interim rule. We were interested in determining the number and kind of small entities that would incur benefits or costs from the implementation of the interim rule. We did not receive any comments that addressed the effect the rule will have on small entities.

Within the newly quarantined areas for ALB, nurseries, arborists, tree removal services, and firewood dealers could be affected by the interim rule. They could be affected in two ways. First, if a business wishes to move regulated articles interstate from a quarantined area, that business must either: (1) Enter into a compliance agreement with APHIS for the inspection and certification or limited permitting of regulated articles for interstate movement from the quarantined area; or (2) present its regulated articles to an APHIS inspector for inspection and obtain a certificate or a limited permit, issued by the APHIS inspector, for the interstate movement of the regulated articles. In either case, the inspections of regulated articles may be inconvenient, but these inspections do not result in any additional direct costs for businesses because APHIS provides the services of the inspector without cost, as long as those services are administered during normal working hours. There is also no cost for the compliance agreement, certificate, or limited permit for interstate movement of regulated articles.

Second, because of ALB infestation, some regulated articles may not qualify for interstate movement under a certificate or limited permit. In this case, a business wishing to move such

regulated articles imported from a quarantined area would be deprived of the opportunity to benefit from the sale of the affected regulated articles in another State. However, we do not have data to estimate either the potential loss of income or the economic effect of any potential loss of income on small businesses.

ALB has the potential to cause extensive tree damage and serious economic losses to many businesses, both large and small, in the United States. In the eastern region of the United States alone, which includes the north-central States, there are 279 million acres of hardwood forests, representing about 75 percent of the land of all eastern forests. That forest acreage is in addition to land in urban and suburban areas where hardwood trees are common in streets, backyards and parks. It is estimated that maple trees account for at least 30 percent of the street and park plantings in urban areas. Nursery stock and certain fruit trees are also at risk.

Industries that would be negatively affected by the spread of ALB are important economically. The forest products industry provided employment to 1.6 million U.S. workers in 1986, the last year for which complete data is available. That number represents 9 percent of the employment in all industries that year. For the United States as a whole, timber was the most important agricultural crop in 1986 in terms of the dollar value of production. In 1986, roundwood timber products, at local points of delivery, were valued at \$12.6 billion, ahead of corn, which was valued at \$12.4 billion. In the north-central United States, timber was the fourth most important agricultural crop in 1986, behind only corn, soybeans, and hay. The value of roundwood timber products harvested in the north-central United States accounted for 8 percent of the employment, 6 percent of the wages and salaries, and 7 percent of the value of shipments of all industries in that area in 1986. This translates to a workforce of 382,000 employees earning \$8.6 billion. Industry shipments were valued at \$44.8 billion in 1986. In all, forest industry manufacturing in the north-central United States contributed \$53.4 billion to the gross national product in 1986. (These statistics on the forest products industry reflect products made from softwood timber as well as hardwood timber. However, the effect of hardwood timber on the totals is significant. As an example, hardwood accounted for 80 percent of the net volume of growing stock on timberland in eight north-central States in 1992.)

North-central nursery companies that rely on healthy hardwood trees are also important economically. In 1994, the United States nursery and landscape industry sales at firms in the north-central States focused primarily in the production of ornamental nursery products, including nursery stock valued at \$10.4 billion and \$100 million, respectively. In 1996, sales of plants (trees and shrubs), nursery trees and greenhouses in the United States totaled an estimated \$1.1 billion, of which \$125 million was derived from sales in the north-central States. During the year ending September 30, 1997, 103.9 million landscape trees were sold in the United States, including 25 million in the north-central States. Approximately half of all landscape trees sold in the United States are hardwood trees.

The maple syrup industry relies on healthy maple trees, especially the sugar maple, for its production. In 1995, three north-central States (Michigan, Ohio, and Wisconsin) accounted for about 20 percent of the value of the U.S. maple syrup production (\$25.5 million).

The tourism industry is tied heavily to leaf color changes in the fall, and the maple tree is noted for producing some of the most vivid colors. Between mid-September and late October, for example, the hardwood forests of New England draw 1 million tourists and generate \$1 billion in revenue. It is estimated that up to one-fourth of the tourism revenue generated annually in New England is due to the fall foliage displays. Although to a lesser extent than in New England, the forests of the north-central States also generate tourism revenue as a result of leaf color changes in the fall.

The commercial fruit industry is also at risk of pest infestation. Peach, apple, plum, and citrus trees are susceptible to ALB infestation. It is estimated that for the United States as a whole, the cost of replacing host fruit trees would amount to \$5.2 billion alone for peach, apple, and plum orchards and \$10.4 billion for citrus. The fruits of host trees would also be affected by a widespread infestation. The average 1995-1997 value of utilized production in the United States of the four fruits noted above was estimated at \$4.7 billion.

The alternative to the interim rule was to take no action. We rejected this alternative because the quarantine of the three areas in Illinois listed in the interim rule is necessary to prevent the spread of ALB.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine.

Reporting and recordkeeping requirements, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR 301 and that was published at 63 FR 61365-6366 on November 13, 1998.

Authority: 7 CFR 1.417, 1.420, 1.421, 1.422, 1.423, 1.424, 1.425, 1.426, 1.427, 1.428, 1.429, 1.430, and 1.431.

Date: 11/13/98. Effective Date: May 1, 1999.

Joan M. Arnoldi,

Chief, Agricultural Quarantine and Plant Health Inspection Service.

1000-00-13792-1 and 8-0000-00-844-0-1

BILLING CODE 3410-34-P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 214 and 245

[INS No. 1881-97]

RIN 1115-AE96

Adjustment of Status; Continued Validity of Nonimmigrant Status, Unexpired Employment Authorization, and Travel Authorization for Certain Applicants Maintaining Nonimmigrant H or L Status

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This rulemaking amends and clarifies Immigration and Naturalization Service regulations governing an H-1 and L-1 nonimmigrant's continued nonimmigrant status during the pendency of an application for adjustment of status. This action incorporates into the regulations existing Service policy statements regarding this issue. In addition, this rule eliminates the requirement for those adjustment applicants who maintain valid H-1 and L-1 nonimmigrant status, and their dependent family members, to obtain advance parole prior to traveling outside the United States. Finally, the Service is considering expanding the "dual intent" concept to cover long term nonimmigrants, in E, F, J, and M visa classifications, who are visiting this country as traders, investors, students, scholars, etc.

DATES: Effective date: This interim regulation is effective July 1, 1999.

Comment date: Written comments must be submitted on or before August 2, 1999.

ADDRESSES: Please submit written comments, in triplicate, to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, NW., Room 5307, Washington, DC 20536. To ensure proper handling, please reference INS No. 1881-97 on your correspondence. Comments are available for public inspection at the above address by calling (202) 514-3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: Frances A. Murphy, Adjudications Officer, Residence and Status Services Branch, Office of Adjudications, Immigration and Naturalization Service, 425 I Street, NW., Room 3214, Washington, DC 20536, telephone (202) 514-3978.

SUPPLEMENTARY INFORMATION:

Why Is the Service Issuing This Regulation?

This rule is being issued to codify previous Service policy statements regarding the eligibility of H-1 and L-1 nonimmigrants, and their dependent family members, to maintain and to extend their nonimmigrant status while their applications for permanent residence remain pending. This rule also addresses the issue of the eligibility of these aliens to travel outside the United States without abandoning their applications for status.

What Categories of Aliens May Maintain Nonimmigrant Status After Having Filed for Adjustment of Status?

Under Section 214(b) of the Immigration and Nationality Act, (Act), most nonimmigrants who apply for adjustment of status to that of permanent residents of the United States are presumed to be intending immigrants and, therefore, are no longer eligible to maintain nonimmigrant status. Section 214(h) of the Act, however, permits aliens described in section 101(a)(15)(H)(i) and (L) of the Act, i.e., temporary workers in specialty occupations, intracompany managerial or executive transferees, and their dependent spouses and children, to maintain their nonimmigrant status during the pendency of their applications for adjustment of status.

In addition, the Service is considering expanding the dual intent concept to cover other long term nonimmigrants who are visiting this country as traders (E-1), investors (E-2), students (F-1, J-1 or M-1), or scholars (J-1), etc. These nonimmigrants, who are typically

authorized to stay in this country for considerable lengths of time, often need to make short overseas travels during their authorized stay. Under the "dual intent" doctrine, these nonimmigrants would be able to maintain valid nonimmigrant status and travel overseas without advance parole while applying for adjustment of status.

The Service has, traditionally, considered applying for adjustment of status as relevant evidence in determining whether an alien has abandoned the requisite nonimmigrant intent. Section 214(b) of the Act does not, however, require the Service to hold this position as an absolute rule. So long as the alien clearly intends to comply with the requirements of his or her nonimmigrant status, the fact that the alien would like to become a permanent resident, if the law permits this, does not bar the alien's continued holding of a nonimmigrant status.

The Service is interested in the public view on this matter and would appreciate written comments.

How Does This Rule Affect Maintenance of H-1 and L-1 Nonimmigrant Status?

Section 214(h) of the Act specifically provides that the fact that an H-1 or L-1 nonimmigrant is the beneficiary of an application for a preference status filed under section 204 or has "otherwise sought permanent residence" in the United States shall not constitute evidence of an intent to abandon the foreign residence. The Service interprets section 214(h) to mean that, in addition to the approval of a labor certification or a preference visa petition, the mere filing of an application for status shall not be the basis for denying an H-1 or L-1 nonimmigrant's properly completed application (or that of their dependent family members in H-4 or L-2 status) for extension of stay or change of status within the H-1 or L-1 (or, as applicable, a H-4 or L-2) classifications. A pending adjustment application, however, does not relieve nonimmigrant H-1 and L-1 aliens of the requirement to comply with the terms of their nonimmigrant classification, including restrictions on periods of stay, change of employer, and engaging in employment. For example, changing employers without first obtaining approval from the Service will cause the alien to lose his or her valid H-1 or L-1 nonimmigrant status.

What Are the Documentary Requirements for Travel Outside the United States for H-1 and L-1 With Pending Applications for Adjustment of Status?

Current Service regulations at § 245.2(a)(4)(ii) require that all adjustment applicants obtain advance parole authorization prior to traveling outside the United States. Prior to enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), such persons were deemed to be applicants seeking admission and were subject to the grounds of excludability. The Service imposed the advance parole requirement and the concomitant exclusion process in order to maintain control over the re-entry of such aliens. With the phasing out of exclusion proceedings under IIRIRA, however, the Service believes it is now appropriate to amend its regulations to provide fuller effect to section 214(h) of the Act by exempting H-1 and L-1 nonimmigrants with pending applications for adjustment of status (as well as their dependent family members) from obtaining advance parole authorization prior to traveling outside the United States. Generally, such H-1 and L-1 nonimmigrants may be readmitted into the United States in the same status provided they are in possession of a valid H-1 or L-1 nonimmigrant visa (for those aliens not visa exempt), and the original I-797 receipt notice for the application for adjustment of status, and continue to remain eligible for H-1 or L-1 classification. All other nonimmigrants with pending applications for status must obtain advance parole authorization in accordance with § 245.2(a)(4)(ii) prior to traveling outside the United States.

Under What Section of the Regulations Would H-1 or L-1 Nonimmigrants be Granted Authorization for Continued Employment?

H-1 and L-1 nonimmigrants filing applications for permanent residence have two options with respect to work authorization, but the choices have different consequences. Such aliens, of course, may continue to work in accordance with the terms of their nonimmigrant employment authorization, as provided in § 274a.12(b)(9) or (12). This means that, while their application for adjustment of status is still pending, their employment is limited to the employer for whom the current nonimmigrant visa petition was approved.

In the alternative, when filing an application for permanent residence, an

H-1 or L-1 nonimmigrant may also file a form I-765 application for unrestricted employment authorization as provided in § 274a.12(c)(9). After receiving an Employment Authorization Document, the alien would be eligible to work for any employer, and this work authorization would continue as long as the alien's application for adjustment of status remains pending. However, such an alien should bear in mind that, by accepting employment with an employer other than the one which filed the approved H-1 or L-1 nonimmigrant petition under § 274a.12(c)(9), the alien would no longer be in compliance with the requirements of the H-1 or L-1 nonimmigrant status.

If the alien's application for adjustment of status is ultimately approved, then it would not matter which option the alien had followed. However, if the application for adjustment is denied, then the alien's status would depend on which option was followed. If the alien had continued to work for an approved employer under the terms of his or her H-1 or L-1 status, and otherwise properly maintained such status, the alien would still retain his or her nonimmigrant status, if that status had not yet expired according to the established terms. However, an alien who had chosen to work for a different employer during the period that his or her application for adjustment of status was pending would have thereby lost his or her H-1 or L-1 nonimmigrant status. Thus, if the alien's application for adjustment of status is denied, the alien would no longer be in a lawful status and would be subject to removal proceedings. In addition, a dependent family member who had chosen to engage in unrestricted employment while the application for adjustment of status was pending would lose his or her H-4 or L-2 nonimmigrant dependent status. Therefore, if the principal's application for adjustment of status is denied, such dependent family members would also not be in a lawful status and could not revert back to H-4 or L-2 dependent status.

Filing of I-765 for H's and L's Seeking Employment Authorization Under § 274a.12(c)(9)

H-1 and L-1 nonimmigrants filing adjustment applications who intend to seek open-market employment authorization under § 274a.12(c)(9) should file Form I-765 concurrently with the I-485 to avoid a lapse of employment authorization. After filing the Form I-765, the H-1 or L-1 nonimmigrant must wait until he or she receives the employment authorization

document before the alien may enter into open-market employment. The INS Service Centers will continue to entertain requests for expeditious handling of Form I-765 employment authorization requests in accordance with prevailing criteria. Expeditious handling of a request for employment authorization under § 274a.12(c)(9), however, may be insufficient to ensure that a lapse in employment authorization does not occur when the application for status is filed near the expiration of H-1 or L-1 nonimmigrant status.

What Are the Effects of Denial of I-485 on Employment Authorization and Nonimmigrant Status?

An alien whose adjustment of status application is denied but who has continuously maintained his or her H-1 or L-1 nonimmigrant status while the adjustment application was pending, may continue to work in accordance with the terms of the nonimmigrant visa. If the adjustment of status application is denied, any employment authorization granted to the alien under § 274a.12(c)(9) will be subject to termination pursuant to § 274a.14(b). Further, if the alien is not maintaining his or her H-1 or L-1 nonimmigrant status, he or she will be subject to removal proceedings.

How Does the Approval of an Application for Adjustment of Status During the Alien's Absence From the United States Affect His or Her Readmission?

In accordance with 8 CFR 211.1, a Form I-797 approval notice for an adjustment of status application is insufficient to establish an arriving alien's entitlement to lawful permanent residence. An H-1 or L-1 nonimmigrant (or a dependent family member) whose application for adjustment of status was approved during the alien's absence from the United States will be granted deferred inspection in accordance with § 235.2(b) upon presentation of a valid I-797 notice of approval of the application for status. Such deferred action shall be for the purpose of providing conclusive evidence that the alien's status has in fact been adjusted to that of a lawful permanent resident.

Good Cause Exception

The Service's implementation of this rule as an interim rule, with provisions for post-promulgation public comments, is based on the "good cause" exceptions found at 5 U.S.C. 533(b)(3)(B), and (d)(3). The immediate implementation of this interim rule without prior notice and comment is necessary to: (1) Clarify

existing Service policy with respect to adjustment applicants who need to travel abroad while their application is pending, (2) provide a benefit to U.S. employers by facilitating the continued employment of nonimmigrant H-1 and L-1 workers who have filed for adjustment of status, and (3) allow such workers more flexibility to travel. The Service will consider fully all comments submitted during the comment period.

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities because it affects individuals by allowing them to continue to be employed and to travel while seeking adjustment of status. Any effect on small entities that employ such nonimmigrants will be beneficial.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any 1 year, and will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

This rule is not considered by the Department of Justice, Immigration and Naturalization Service, to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review, and the Office of Management and Budget has waived its review process under section 6(a)(3)(A).

Executive Order 12612

The regulation adopted herein will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12988 Civil Justice Reform

This interim rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of E.O. 12988.

List of Subjects**8 CFR Part 214**

Administrative practice and procedure, Aliens, Employment, Foreign officials, Health professions, Reporting and recordkeeping requirements, Students.

8 CFR Part 245

Aliens, Immigration, Reporting and recordkeeping requirements.

Accordingly, chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 214—NONIMMIGRANT CLASSES

1. The authority citation for part 214 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1184, 1186a, 1187, 1221, 1281, 1282; 8 CFR part 2

2. Section 214.2 is amended by revising paragraphs (h)(16)(i) and (l)(16) to read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * *

(h) * * *

(16) * * * (i) *H-1 classification.* An alien may legitimately come to the United States for a temporary period as an H-1 nonimmigrant and, at the same time, lawfully seek to become a permanent resident of the United States provided he or she intends to depart voluntarily at the end of his or her authorized stay. The filing of an application for or approval of a permanent labor certification, an immigrant visa preference petition, or the filing of an application for adjustment of status for an H-1 nonimmigrant shall not be a basis for denying:

(A) An H-1 petition.
(B) A request to extend an H-1 petition.

(C) The H-1 alien's application (and that of their dependent family members) for change of status to a different H-1 or L classification, or a dependent of an H-1 or L nonimmigrant, or

(E) The H-1 alien's application for extension of stay, (and that of their dependent family members).

* * *

(l) * * *

(16) *Effect of filing an application for or approval of a permanent labor certification, preference petition, or filing of an application for adjustment of status on L-1 classification.* An alien may legitimately come to the United States for a temporary period as an L-1 nonimmigrant and, at the same time, lawfully seek to become a permanent resident of the United States provided he or she intends to depart voluntarily at the end of his or her authorized stay. The filing of an application for or approval of a permanent labor certification, an immigrant visa preference petition, or the filing of an application of readjustment of status for an L-1 nonimmigrant shall not be the basis for denying:

(i) An L-1 petition filed on behalf of the alien.

(ii) A request to extend an L-1 petition which had previously been filed on behalf of the alien:

(iii) An application for admission as an L-1 nonimmigrant by the alien, or as an L-2 nonimmigrant by the spouse or child of such alien;

(iv) An application for change of status to H-1 or L-2 nonimmigrant filed by the alien, or to H-1, H-4, or L-1 status filed by the L-2 spouse or child of such alien;

(v) An application for change of status to H-4 nonimmigrant filed by the L-1 nonimmigrant, if his or her spouse has been approved for classification as an H-1; or

(vi) An application for extension of stay filed by the alien, or by the L-2 spouse or child of such alien.

* * *

PART 245—ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE

3. The authority citation for part 245 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1255, sec. 202, Pub. L. 105-100 [111 Stat. 2160, 2193]; and 8 CFR part 2

4. In § 245.2, paragraph (a)(4)(ii) is revised to read as follows:

§ 245.2 Application.

(a) * * *

(4) * * *

(ii) *Under section 245 of the Act.* (A) The departure from the United States of an applicant who is under exclusion, deportation, or removal proceedings shall be deemed an abandonment of the application constituting grounds for termination of the proceeding by reason of the departure. Except as provided in paragraph (a)(4)(ii)(B) and (C) of this section, the departure of an applicant who is not under exclusion, deportation, or removal proceedings shall be deemed an abandonment of the application constituting grounds for termination of any pending application for adjustment of status, unless the applicant was previously granted advance parole by the Service for such absences, and was inspected upon returning to the United States. If the adjustment application of an individual granted advance parole is subsequently denied the individual will be treated as an applicant for admission, and subject to the provisions of section 212 and 235 of the Act.

(B) The travel outside of the United States by an applicant for adjustment who is not under exclusion, deportation, or removal proceedings shall not be deemed an abandonment of the application if he or she was previously granted advance parole by the Service for such absences, and was inspected and paroled upon returning to the United States. If the adjustment of status application of such individual is subsequently denied, he or she will be treated as an applicant for admission, and subject to the provisions of section 212 and 235 of the Act.

(C) The travel outside of the United States by an applicant for adjustment of status who is not under exclusion, deportation, or removal proceeding and who is in lawful H-1 or L-1 status shall not be deemed an abandonment of the application if, upon returning to this country, the alien remains eligible for H or L status, is coming to resume employment with the same employer for whom he or she had previously been authorized to work as an H-1 or L-1 nonimmigrant, and, is in possession of a valid H or L visa (if required) and the original I-797 receipt notice for the application for adjustment of status. The travel outside of the United States by an applicant for adjustment of status who is not under exclusion, deportation, or removal proceeding and who is in lawful H-4 or L-2 status shall not be deemed an abandonment of the application if the spouse or parent of such alien through whom the H-4 or L-2 status was obtained is maintaining H-1 or L-1 status and the alien remains otherwise eligible for H-4 or L-2 status, and, the alien is in possession of a valid

H-4 or L-2 visa (if required) and the original copy of the I-797 receipt notice for the application for adjustment of status.

Dated: May 12, 1999

Doris Meissner,

Commissioner, Immigration and
Naturalization Service

IFR Doc. 99-13759 Filed 5-28-99; 8:45 am

BILLING CODE 4410-10-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

RIN 3150-AG27

Formal and Informal Adjudicatory Hearing Procedures; Clarification of Eligibility To Participate

AGENCY: Nuclear Regulatory
Commission.

ACTION: Direct final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations governing participation in adjudicatory proceedings conducted under its Rules of Practice to clarify that Federally-recognized Indian tribal governments are entitled to participate in these proceedings on the same basis as other governmental units.

DATES: The final rule is effective August 2, 1999, unless significant adverse comments are received by July 1, 1999. If significant adverse comments are received, a timely withdrawal will be published in the *Federal Register*.

ADDRESSES: Mail any comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Rulemakings and Adjudications Staff.

Hand deliver comments to 11555 Rockville Pike, Rockville, Maryland, 20852, between 7:30 am and 4:15 Eastern time on Federal workdays.

You may also provide comments via the NRC's interactive rulemaking website through the NRC home page (<http://www.nrc.gov>). This site provides the availability to upload comments as files (any format) if your web browser supports that function. For information about the NRC's interactive rulemaking website, contact Ms. Carol Gallagher, (301) 415-5905; email CAG@nrc.gov.

Copies of any comments received may be examined at the NRC Public Document Room, 2120 L Street NW, (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Charles E. Mullins, Office of the General Counsel, U.S. Nuclear Regulatory

Commission, Washington, DC 20555-0001; telephone (301) 415 1606; e-mail: CEM@nrc.gov.

SUPPLEMENTARY INFORMATION: Because the NRC considers this action noncontroversial and routine, the NRC is publishing the rule in final form without first seeking public comments on the amendments in a proposed rule. This action will become effective on August 2, 1999. However, if the NRC receives significant adverse comments by July 1, 1999, the NRC will publish a document that withdraws this action pending review of the comments, and will address those comments in a subsequent final rule. The NRC will not initiate a second comment period on this action.

Background

These amendments are intended to ensure that Federally-recognized Indian Tribal governments and their official subdivisions have the same participation rights in NRC adjudicatory proceedings as State governments, units of local governments, and their official subdivisions. In many respects, Federally-recognized Indian tribes exercise inherent sovereign powers over their members and territory, similar to the powers exercised by States and other units of local government. In many areas of the law, these sovereign rights are recognized either by court decision, statute, or treaty. Therefore, because these tribes exercise many of the attributes of States or other governmental units, the Commission has determined that they should be recognized in adjudicatory proceedings in the same fashion as State and local governmental bodies. Accordingly, the Commission is issuing this amendment to ensure that Federally-recognized Indian tribes will have the same opportunity to participate in any proceeding that affects their interests. These amendments are intended to meet the goals of Executive Order No. 13084 of May 14, 1998.

In addition, the Commission is also making two minor editorial changes in § 2.1211(b) to conform its wording to the wording in § 2.715(c).

Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final regulation.

Paperwork Reduction Act Statement

This final rule contains no information collection requirements and, therefore, is not subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

Regulatory Analysis

A regulatory analysis has not been prepared for this direct final rule because this rule is considered a minor, non-substantive amendment; it has no economic impact on NRC licensees or the public.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this rule does not have a significant economic impact on a substantial number of small entities. This rulemaking is an administrative action that clarifies the rights of Federally-recognized Indian tribes to participate in NRC adjudicatory proceedings. It has no financial impact on NRC licensees or the public.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule and, therefore, that a backfit analysis is not required for this final rule because these amendments do not impose any provisions that would impose backfits as defined in 10 CFR 50.109.

Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of OMB.

List of Subjects in 10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalties, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR Part 2.

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

1. The authority citation for Part 2 continues to read as follows:

Authority: Secs. 161, 181, 68 Stat. 948, 953, as amended (42 U.S.C. 2201, 2231); sec. 191, as amended, Pub. L. 87-615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552

Section 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 105, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 114 (f); Pub. L. 97-425, 96 Stat. 2213, as amended (42 U.S.C. 10143 (f)); sec. 102, Pub. L. 91-190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Section 2.102, 2.103, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 183i, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Section 2.105 also issued under Pub. L. 97-415, 96 Stat. 2073 (42 U.S.C. 2239). Sections 2.200-2.206 also issued under secs. 161 b.i.o., 182, 186, 234, 68 Stat. 948-951, 955, 83 Stat. 444, as amended (42 U.S.C. 2201 (b), (i), (o), 2236, 2282); sec. 206, 88 Stat. 1246 (42 U.S.C. 5846). Sections 2.205 (j) also issued under Pub. L. 101-410, 104 Stat. 90, as amended by section 1100 (s), Pub. L. 104-134, 110 Stat. 1321-373 (28 U.S.C. 2461 note). Section 2.600-2.606 also issued under sec. 102, Pub. L. 91-190, 83 Stat. 853, as amended (42 U.S.C. 4332). Section 2.700a, 2.719 also issued under 5 U.S.C. 554. Sections 2.754, 2.760, 2.770, 2.780 also issued under 5 U.S.C. 557. Section 2.764 also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133) and 5 U.S.C. 552. Sections 2.800 and 2.808 also issued under 5 U.S.C. 553. Section 2.809 also issued under 5 U.S.C. 553, and sec. 29, Pub. L. 85-256, 71 Stat. 579, as amended (42 U.S.C. 2039). Subpart K also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97-425, 96 Stat. 2230 (42 U.S.C. 10154). Subpart L also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239). Subpart M also issued under sec. 184 (42 U.S.C. 2234) and sec. 189, 68 Stat. 955 (42 U.S.C. 2239). Appendix A also issued under sec. 6, Pub. L. 91-560, 84 Stat. 1473 (42 U.S.C. 2135).

2. In § 2.715, paragraph (c) is revised to read as follows:

§ 2.715 Participation by a person not a party.

(c) The presiding officer will afford representatives of an interested State, county, municipality, Federally-recognized Indian Tribe, and/or agencies thereof, a reasonable opportunity to participate and to introduce evidence, interrogate witnesses, and advise the Commission without requiring the representative to take a position with respect to the issue. Such participants may also file proposed findings and exceptions

pursuant to §§ 2.754 and 2.762 and petitions for review by the Commission pursuant to § 2.786. The presiding officer may require such representative to indicate with reasonable specificity, in advance of the hearing, the subject matters on which he desires to participate.

3. In § 2.1211, paragraph (b) is revised to read as follows:

§ 2.1211 Participation by a person not a party.

(b) Within 30 days of an order granting a request for a hearing under § 2.1205 (b) through (d) or, in instances when it is published, within 30 days of notice of hearing issued under § 2.1205 (j), the representative of an interested State, county, municipality, Federally-recognized Indian Tribe, and/or agencies thereof, may request an opportunity to participate in a proceeding under this subpart. The request for an opportunity to participate must state with reasonable specificity the requester's area of concern about the licensing activity that is the subject matter of the proceeding. Upon receipt of a request that is filed in accordance with these time limits and that specifies the requester's areas of concern, the presiding officer shall afford the requester a reasonable opportunity to make written and oral presentations in accordance with §§ 2.1233 and 2.1235, without requiring the representative to take a position with respect to the issues. Participants under this paragraph may notice an appeal of an initial decision in accordance with § 2.1253 with respect to any issue on which they participate.

Dated at Rockville, Maryland, this 24th day of May, 1999.

For the Nuclear Regulatory Commission,
Annette Vietti-Cook,

Secretary of the Commission.

[FR Doc. 99-13653 Filed 5-28-99; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

RIN 3150-AG28

Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings: Minor Amendments

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations governing the filing and service of Requests for Hearings and Petitions for Leave to Intervene in "informal" materials and operator licensing proceedings conducted under its Rules of Practice. This action is necessary to correct a cross-referencing error in the provisions concerning the method of filing documents and to change the method of service of pleadings on the NRC Staff.

EFFECTIVE DATE: This final rule is effective June 1, 1999.

FOR FURTHER INFORMATION CONTACT: Charles E. Mullins, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone (301) 415-1606; e-mail: CEM@nrc.gov.

SUPPLEMENTARY INFORMATION:

Background

These amendments are designed to correct two minor errors in an earlier rulemaking and to make two minor changes regarding service of pleadings on the NRC Staff as a party in these proceedings. First, this rulemaking corrects a typographical error in the printing of a final rule published July 29, 1996 (61 FR 32978), amending Subpart L. That final rule included a reference in 10 CFR 2.1203(e) to 10 CFR 2.1205(R). The cross-reference to paragraph (R) should have appeared as a cross-reference to paragraph (k), as set out in the original proposed rule. The Commission is correcting that cross-reference.

Second, the 1996 rulemaking inserted a new paragraph (c) in 10 CFR 2.1205 and renumbered the existing paragraph (c) as paragraph (d) and all subsequent paragraphs accordingly. However, the rulemaking failed to correct a cross-reference to the original paragraph (c), now paragraph (d), in the original paragraph (f), now paragraph (g). The Commission is correcting that cross-reference.

Third, this rulemaking makes two minor changes in the service of specific pleadings in these proceedings by designating that service of Requests for Hearings and Petitions for Leave to Intervene on the NRC Staff shall be made by serving those documents on the General Counsel, rather than on the Executive Director for Operations as currently required. Eventually, the Executive Director for Operations must refer any pleading to the General Counsel for a response to the Presiding Officer. The Commission has found that pleadings are sometimes lost or delayed by not having them filed directly with

the General Counsel. Accordingly, the Commission has concluded that direct service on the General Counsel will eliminate any delay and increase the efficiency of its adjudicatory processes.

Because these amendments are administrative in nature and deal solely with agency practice and procedure, the notice and comment provisions of the Administrative Procedure Act do not apply under 5 U.S.C. 553(b)(A). In addition, good cause exists to dispense with the usual 30-day delay because the amendments are of a corrective and administrative nature dealing with a matter of agency conduct, a change in the manner in which proceedings shall be served on the NRC Staff. Accordingly, these amendments are effective upon publication in the *Federal Register*.

Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final regulation.

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

Regulatory Analysis

A regulatory analysis has not been prepared for this final rule because this rule is considered a minor non-substantive amendment: it has no economic impact on NRC licensees or the public.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule and, therefore, that a backfit analysis is not required for this final rule because these amendments do not impose any provisions that would impose backfits as defined in 10 CFR Chapter I.

List of Subjects in 10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalties, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended,

the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR Part 2

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

1. The authority citation for Part 2 continues to read as follows:

Authority: secs. 101, 102, 168 Stat. 936, 937, as amended (42 U.S.C. 2201, 2231); sec. 101, as amended, Pub. L. 87-615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5842).

Section 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 105, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 114 (f); Pub. L. 97-425, 96 Stat. 2213, as amended (42 U.S.C. 10143 (f)); sec. 102, Pub. L. 91-190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Section 2.102, 2.103, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 1831, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Section 2.105 also issued under Pub. L. 97-415, 96 Stat. 2073 (42 U.S.C. 2239). Sections 2.200-2.206 also issued under secs. 161 b, i, o, 182, 186, 234, 68 Stat. 948-951, 955, 83 Stat. 444, as amended (42 U.S.C. 2201 (b), (i), (o), 2236, 2282); sec. 206, 88 Stat. 1246 (42 U.S.C. 5846). Sections 2.205 (j) also issued under Pub. L. 101-410, 104 Stat. 90, as amended by section 3100 (s), Pub. L. 104-134, 110 Stat. 1321-373 (28 U.S.C. 2461 note). Section 2.600-2.606 also issued under sec. 102, Pub. L. 91-190, 83 Stat. 853, as amended (42 U.S.C. 4332). Section 2.700a, 2.719 also issued under 5 U.S.C. 554. Sections 2.754, 2.760, 2.770, 2.780 also issued under 5 U.S.C. 557. Section 2.764 also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133) and 5 U.S.C. 552. Sections 2.800 and 2.808 also issued under 5 U.S.C. 553. Section 2.809 also issued under 5 U.S.C. 553, and sec. 29, Pub. L. 85-256, 71 Stat. 579, as amended (42 U.S.C. 2039). Subpart K also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97-425, 96 Stat. 2230 (42 U.S.C. 10154). Subpart L also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239). Subpart M also issued under sec. 184 (42 U.S.C. 2234) and sec. 189, 68 Stat. 955 (42 U.S.C. 2239). Appendix A also issued under sec. 6, Pub. L. 91-560, 84 Stat. 1473 (42 U.S.C. 2135).

2. In § 2.1203, paragraph (e) is revised to read as follows:

§ 2.1203 Docket; filing; service.

(e) A request for a hearing or a petition for leave to intervene must be served in accordance with § 2.712 and § 2.1205 (f) and (k). All other documents issued by the presiding officer or the Commission or offered for filing are served in accordance with § 2.712.

3. In § 2.1205, paragraphs (f)(2), (g), (k)(1)(i), and (k)(1)(ii) are revised to read as follows:

§ 2.1205 Request for a hearing; petition for leave to intervene.

(f) * * *

(2) The NRC Staff, by delivery to the General Counsel, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or by mail addressed to the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

(g) Within ten (10) days of service of a request for a hearing filed under paragraph (d) of this section, the applicant may file an answer. The NRC staff, if it chooses or if it is ordered to participate as a party under § 2.1213, may file an answer to a request for a hearing within ten (10) days of the designation of the presiding officer.

(k) * * *

(1) * * *

(i) By delivery to the General Counsel, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852; or

(ii) By mail addressed to the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Dated at Rockville, Maryland, this 24th day of May, 1999.

For the Nuclear Regulatory Commission
Annette Vietti-Cook,

Secretary of the Commission

[FR Doc. 99-13652 Filed 5-28-99; 8:45 am]

BILLING CODE 7590-01-P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 4

[Docket No. 99-07]

RIN 1557-AB65

Organization and Functions, Availability and Release of Information, Contracting Outreach Program

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is amending its disclosure regulation. Among other things, the amendment clarifies that the OCC may make non-public OCC information available to a supervised entity and to other persons, as the Comptroller, in his sole discretion, may

deem necessary or appropriate, without a request for records or testimony.

DATES: The final rule is effective on June 1, 1999

FOR FURTHER INFORMATION CONTACT:

Ursula Pfeil, Attorney, Legislative and Regulatory Activities (202) 874-5090; or Stuart Feldstein, Assistant Director, Legislative and Regulatory Activities (202) 874-5090, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

Background

The OCC is amending subpart C of 12 CFR Part 4 which governs the release of non-public OCC information. Part 4 currently requires a person seeking non-public OCC information to submit a request in writing to the OCC. The current rule does not include a procedure for the release of non-public OCC information to supervised entities and other persons without a specific request for the information.

The OCC has authority to prescribe rules governing the release of agency records and information under its grant of statutory authority to promulgate substantive regulations to carry out the responsibilities of the office, 12 U.S.C. 93a, as well as under statutes that contemplate the sharing of information with other agencies and persons. See, e.g., 12 U.S.C. 481; 12 U.S.C. 1867; 12 U.S.C. 1820(d)(6).

On November 10, 1998, the OCC requested comment on an interim rule amending part 4. 63 FR 62927. The OCC made three independent changes to part 4 in the interim rule. First, the interim rule added a new section that clarifies the OCC's existing authority to make non-public OCC information available to a supervised entity and to other persons, that in the sole discretion of the Comptroller may be necessary or appropriate, without a specific request by a third party. The term "supervised entity" is defined in the interim rule to include a national bank, a subsidiary of a national bank, or a federal branch or agency of a foreign bank licensed by the OCC.

Second, the OCC amended the definition of non-public OCC information. Section 4.32 defines non-public OCC information as information, confidential or otherwise, that the OCC is not required to release under the Freedom of Information Act (FOIA) (5 U.S.C. 552) or that the OCC has not yet published or made available under 12 U.S.C. 1818(u), the statute requiring publication of certain enforcement orders. Section 4.32 provides an illustrative list of the types of

information that qualify as non-public OCC information, including OCC records contained in, or related to, examination and operating or condition reports concerning national banks and their subsidiaries and affiliates. The interim rule amended the definition of non-public OCC information to include a Suspicious Activity Report (SAR) filed by the OCC or a supervised entity under 12 CFR 21.11. While the OCC has always taken the position that SARs are non-public information, the OCC proposed this change to enhance the ability of banks and the OCC to protect SARs from being disclosed when SARs are sought by private litigants.

Third, the OCC emphasized in the interim rule that non-public OCC information remains the property of the OCC even after it is disclosed and may not be disclosed to others except as authorized by the OCC. The interim rule clarified that current and former OCC employees and agents are prohibited from disclosing or permitting the disclosure of any non-public OCC information to anyone other than an employee or agent of the OCC who needs the information for the performance of OCC duties. Current and former OCC employees and agents who are subpoenaed or otherwise requested to provide OCC information must notify the OCC immediately under procedures set forth in § 4.37(a)(2).

Finally, the OCC made conforming changes to the purpose and scope provisions at § 4.31 of Subpart C to reflect the substantive changes to the other sections amended.

Description of Comments Received

The OCC received two comments on the interim rule: one from a national bank and another from a bank trade association. The bank trade association supported the interim rule as published. The bank objected to the rule on several grounds. After careful consideration of the comments received, the OCC is adopting the interim rule with some clarifying changes.

The Disclosure of Non-Public OCC Information Without a Request

One commenter raised concerns that the new section authorizing disclosure of confidential information (§ 4.36) violates provisions of the Right to Financial Privacy Act (RFPA) (12 U.S.C. 3401-22) and the Community Reinvestment Act (CRA) (12 U.S.C. 2906).

Section 4.36 does not authorize the OCC to disclose information in a manner that would violate the requirements of other federal laws, including the RFPA or CRA. Rather, this

section is intended solely to clarify that the OCC has the discretionary authority to make disclosures, in the exercise of its supervisory responsibilities, that are not prohibited by other applicable statutes without waiting for a specific request. This amendment does not reflect a change in the OCC's long-standing policy and practice to respect the confidentiality of supervisory information. Thus, the OCC will continue to release non-public OCC information without a request only in rare cases after consideration of all circumstances. The exercise of discretion to disclose information under this new section will be limited to a few senior OCC officials, in line with an appropriate delegation of authority.

To address the commenter's concern, however, the OCC is adding a new paragraph to § 4.36 on the OCC's policy regarding the release of non-public OCC information. This paragraph restates the OCC policy that non-public OCC information is confidential and privileged and that the OCC, accordingly, will not normally disclose this information to third parties.

This approach also ensures greater consistency with the Federal Reserve Board's (FRB) regulation regarding discretionary disclosures. The FRB disclosure regulation authorizes the FRB to share confidential supervisory information with supervised financial institutions and, from time to time, to authorize other disclosures of confidential information as necessary. 12 CFR 261.20. The FRB regulation also states that it is the FRB's policy that confidential supervisory information is confidential and privileged and that the FRB, accordingly, will not normally disclose this information to the public. 12 CFR 261.22(a). In addition, the OCC may continue to impose conditions and limitations on the disclosure of information through the entry of a protective order or a written agreement of confidentiality, as provided for under the old rule.

As noted in the interim rule, in some circumstances, the safety and soundness or financial stability of national banks may be affected unless the OCC discloses non-public information to supervised entities or certain other persons without a request. For example, the OCC's ability to help national banks attain Year 2000 readiness depends, in part, on the OCC's ability to share information concerning third parties with supervised entities and other persons. In this case, "other persons" may include self-regulatory organizations or state banks with whom the OCC seeks to share information.

Definition of Non-Public OCC Information (SARs)

The interim rule also amended the definition of non-public OCC information in § 4.32 to include a SAR filed by the OCC, a national bank, or a Federal branch or agency of a foreign bank licensed or chartered by the OCC under 12 CFR 21.11. One commenter, viewing this change in the context of the amendment previously described, raised concerns that this change could chill the cooperation between banks and the OCC and may subject banks to greater liability should the OCC begin to publicly disclose SARs. This is not the case. The OCC added SARs to the list of non-public OCC information to protect the confidentiality of SARs further, particularly in litigation, not to make them more easily disclosable. The amendment clarifies that SARs, which are sensitive and confidential documents, are not subject to disclosure requests under FOIA and are subject to the procedures for the release of non-public OCC information under part 4. The OCC is committed to protecting the confidentiality of SARs, and the amendment does not alter this long-standing policy. Accordingly, the OCC adopts this provision without modification.

Effective Date

Section 553 of the Administrative Procedure Act permits an agency, for good cause, to issue a rule to be effective in less than 30 days from its publication date. 5 U.S.C. 553(d). Likewise, section 302 of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRI), Pub. L. 103-325, authorizes a banking agency to issue a rule to be effective before the first day of the calendar quarter that begins on or after the date on which the regulations are published in final form if the agency finds good cause for an earlier effective date. 12 U.S.C. 4802(b)(1).

The OCC finds good cause for making this final rule effective upon publication in the *Federal Register*. Like the interim rule, this final rule allows the OCC to disclose non-public OCC information to supervised entities and other persons in certain enforcement contexts requiring immediate action where a request for the information may not be forthcoming or may be delayed. The OCC's ability to help national banks attain Year 2000 readiness in the short time remaining also depends, in part, on the OCC's ability to provide information rapidly concerning third parties to supervised entities and other persons without a

request. The OCC's ability to carry out its mission to ensure national banks' safety and soundness, in certain circumstances, may be impaired unless it can make disclosures, as authorized by this final rule, promptly after acquiring the information in question. For these reasons, the OCC concludes that a delayed effective date is impracticable and would be contrary to the public interest. 5 U.S.C. 553(d).

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) does not apply to a rule for which an agency is not required to publish a notice of proposed rulemaking. 5 U.S.C. 603. In issuing the interim rule, the OCC concluded, for good cause, that it is not required to publish a notice of proposed rulemaking. Accordingly, it issued the interim rule without prior notice and comment to be effective immediately. Since the RFA does not apply to a rule for which an agency is not required to publish a notice of proposed rulemaking, the OCC also concludes that the RFA does not require an initial regulatory flexibility analysis of this final rule. Nonetheless, since this final rule imposes no new requirements on any national bank, the OCC finds that this final rule does not have a significant economic impact on a substantial number of small entities or create any additional burden on small entities.

OCC Executive Order 12866 Statement

The OCC has determined that this final rule is not a significant regulatory action under Executive Order 12866.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act (UMA) of 1995, Public Law 104-4, applies only when an agency is required to promulgate a general notice of proposed rulemaking or a final rule for which a general notice of proposed rulemaking was published. 2 U.S.C. 1532. The OCC did not publish a general notice of proposed rulemaking when it, for good cause, issued the interim rule with an immediate effective date. Accordingly, the UMA does not require an unfunded mandates act analysis of this final rule.

Nonetheless, since this final rule prescribes no mandate of any kind, the OCC finds that the final rule will not result in expenditure by State, local, and tribal governments, or by the private sector, of more than \$100 million in any one year. Accordingly, the OCC has not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.

List of Subjects in 12 CFR Part 4

Freedom of information. National banks, Organization and functions (Government agencies), Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set out in the preamble, part 4 of chapter I of title 12 of the Code of Federal Regulations is amended as follows:

PART 4—ORGANIZATIONS AND FUNCTIONS, AVAILABILITY AND RELEASE OF INFORMATION, CONTRACTING OUTREACH PROGRAM

Accordingly, the interim rule amending 12 CFR part 4 which was published at 63 FR 62927 on November 10, 1998, is adopted as a final rule with the following changes:

§ 4.31 [Amended]

1. In § 4.31(b)(3) the term “§ 4.36(c)” is removed and the term “§ 4.37(c)” is added in its place.

2. Section 4.32 is amended by revising paragraph (b)(1)(vii) to read as follows:

§ 4.32 Definitions.

* * * * *

(b) * * *

(1) * * *

(vii) A Suspicious Activity Report filed by the OCC, a national bank, or a Federal branch or agency of a foreign bank licensed or chartered by the OCC under 12 CFR 21.11; and

* * * * *

§ 4.34 [Amended]

3. In § 4.34, in paragraph (a), the term “§ 4.38(d)” is removed and the term “§ 4.39(d)” is added in its place and the term “§ 4.36” is removed and the term “§ 4.37” is added in its place, in paragraph (c) introductory text the term “§ 4.36(c)” is removed and the term “§ 4.37(c)” is added in its place, and in paragraphs (c)(1) and (c)(2) the term “Washington, DC office” is removed and the term “Washington office” is added in its place.

4. In § 4.36, paragraph (a) is revised, paragraphs (b) and (c) are redesignated as paragraphs (c) and (d), respectively, a new paragraph (b) is added, and the heading of paragraph (c) is revised to read as follows:

§ 4.36 Disclosure of non-public OCC information.

(a) *Discretionary disclosure of non-public OCC information.* The OCC may make non-public OCC information available to a supervised entity and to other persons, that in the sole discretion of the Comptroller may be necessary or

appropriate, without a request for records or testimony.

(b) *OCC policy.* It is the OCC's policy regarding non-public OCC information that such information is confidential and privileged. Accordingly, the OCC will not normally disclose this information to third parties.

(c) *Conditions and limitations.* * * *

5. In § 4.37, paragraph (a)(1) is revised and in paragraphs (a)(2)(i) and (ii) the term "Washington, DC office" is removed and the term "Washington office" is added in its place, to read as follows:

§ 4.37 Persons and entities with access to OCC information; prohibition on dissemination.

(a) * * *

(1) Generally. Except as authorized by this subpart or otherwise by the OCC, no current or former OCC employee or agent may, in any manner, disclose or permit the disclosure of any non-public OCC information to anyone other than an employee or agent of the Comptroller for use in the performance of OCC duties.

* * *

Appendix A to Subpart C—[Amended]

6. In Appendix A to Subpart C, section II, paragraph 7, the term "12 CFR 4.38(b)" is removed and the term "12 CFR 4.39(c)" is added in its place.

Dated: May 20, 1999.

John D. Hawke, Jr.,

Comptroller of the Currency.

[FR Doc. 99-13725 Filed 5-28-99; 8:45 am]

BILLING CODE 4810-33-P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 5

Economic and Public Interest Requirements for Contract Market Designation

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rulemaking.

SUMMARY: The Commodity Futures Trading Commission (Commission) is revising its Guideline on Economic and Public Interest Requirements for Contract Market Designation, 17 CFR Part 5, Appendix A (Guideline No. 1). Guideline No. 1 details the information that an application for contract market designation should include in order to demonstrate that the contract market meets the economic requirements for designation. Previously, the

Commission promulgated fast-track review procedures to reduce its review time to review designation applications. To streamline the application process further, the Commission is revising Guideline No. 1, reducing any unnecessary burdens associated with the designation application itself.

Specifically, the Commission is organizing Guideline No. 1 into several specific application forms, making use of a chart format for applications for designation of futures and options contracts to the extent possible. Moreover, the Commission is clarifying that a portion of the application may make use of third-party generated materials. In addition, the Commission is clarifying the review standards for several of the designation requirements. The Commission also is adding a new appendix Part 5 specifying the information that a foreign board of trade should submit to the Commission when seeking no-action relief to offer and to sell, to persons located in the United States, a futures contract on a foreign securities index traded on that foreign board of trade.

EFFECTIVE DATE: August 2, 1999.

FOR FURTHER INFORMATION CONTACT:

Paul M. Architzel, Chief Counsel, Richard H. Shilts, Director, Market Analysis Section, or Kimberly A. Browning, Attorney/Advisor, Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1125 21st Street, NW, Washington, DC 20581. Telephone (202) 418-5260. E-mail:

[PArchitzel@cftc.gov],

[RShilts@cftc.gov] or

[KBrowning@cftc.gov].

SUPPLEMENTARY INFORMATION:

I. Background

The requirement that contract markets meet specified conditions has been a fundamental tool of federal regulation of commodity futures exchanges since the Futures Trading Act of 1921, Pub. L. No. 67-66, 42 Stat. 187 (1921 Act).¹ Currently, the statutory requirements for contract market designation are found in Sections 5 and 5a of the Commodity Exchange Act (Act) and, additionally, for indexes of securities, in Section 2(a)(1)(B) of the Act. Designated contract markets must provide for the prevention of dissemination of false information (Section 5(3) of the Act); must provide for the prevention of price manipulation (Section 5(4) of the Act); must provide for delivery periods which will prevent

market congestion (Section 5a(a)(4) of the Act); and must permit delivery on the contract of such grades, at such points and at such quality and locational differentials as will tend to prevent or to diminish market manipulation (Section 5a(a)(10) of the Act).² Included among these provisions is the general requirement of Section 5(7) of the Act that trading in a proposed contract not be contrary to the public interest. The contract market must meet these requirements both initially and on a continuing basis.³

The Commission, as an aid to the exchanges, has provided guidance in meeting these statutory requirements. In 1975, the newly formed Commission, in one of its earliest actions, issued its Guideline on Economic and Public Interest Requirements for Contract Market Designation, 40 FR 25849 (1975) ("Guideline No. 1").

Subsequently, the Commission revised this Guideline, publishing it as Appendix A to Part 5 of the Code of Federal Regulations, 47 FR 49832 (November 3, 1982). Guideline No. 1 was again revised in 1992, 57 FR 3518 (January 30, 1992). The 1992 revisions streamlined the designation application for both futures and option contract markets. In addition, the 1992 revisions introduced the use of a new checklist-style format for applications for designation of option contracts.⁴

In 1997, the Commission began a far-reaching program of regulatory reform. Its first initiative was to establish fast-track procedures for Commission review and approval of applications for contract market designation. See, Commission Rule 5.1, 62 FR 10434 (March 7, 1997). The fast-track procedure creates a streamlined and speedy alternative review process for Commission consideration of designation applications, reducing unnecessary regulatory burdens on exchanges while also preserving the opportunity for public participation and

² A further listing of contract market approval requirements under the Act is provided in the proposed rulemaking, 63 FR 38537, n. 2.

³ Generally, the burden of demonstrating compliance rests with the contract market. Section 6 of the Act provides, in part, that:

Any board of trade desiring to be designated a "contract market" shall make application to the Commission for such designation and accompany the same with a showing that it complies with the above conditions, and with a sufficient assurance that it will continue to comply with the above requirements.

⁴ For a more complete discussion of the revisions made to Guideline No. 1 in 1982 and 1992, see 63 FR 38537-38538.

¹ A more complete description of the contract market approval process under the 1921 Act is provided in the proposed rulemaking, 63 FR 38537, n. 1 (July 17, 1998).

fulfillment of the Commission's oversight responsibilities.⁵

The Commission, in addition to promulgating the fast-track review rules, indicated its intent broadly to reexamine the form and content requirements of Guideline No. 1, including consideration of the possible applicability of an option-style checklist to applications for designation of proposed futures contracts.⁶ The Commission has noted that "[i]mplementation of fast-track review and approval procedures, separately and together with the planned revision of the format and content requirements for designation applications, should result in significantly streamlining the procedures and regulatory requirements associated with the current contract designation process." 62 FR 10435, and that these initiatives should permit the exchanges greater flexibility to compete with foreign exchange-traded products and with both foreign and domestic over-the-counter transactions while maintaining the basic protections embedded in the Act. 61 FR 59390 (November 22, 1996). In this regard, the Commission's approval process for new contracts, as well as its designation application process, also is in keeping with a 1998 International Organization of Securities Commissions' (IOSCO) publication entitled "Applicability of the Surveillance Guidance to Other Exchange-Traded Derivatives Products." That IOSCO report makes general recommendations to market authorities concerning what a market surveillance program should contain to monitor effectively exchange derivatives markets without unnecessarily affecting market innovation.

A. Proposed Amendments

Based upon its experience in administering the current Guideline and the fast track procedures, the

Commission proposed to revise Guideline No. 1 in several important respects. 63 FR 38537 (July 17, 1998) First, the Commission proposed to streamline the Guideline by reorganizing its contents to present applications for designation of futures contracts in a clearer, more focused format including the use of charts. Specifically, the Commission proposed to reorganize the contents of the Guideline to address applications for four different types of contracts: (1) Physical delivery futures; (2) cash-settled futures; (3) options on futures; and (4) options on physicals. Except for options on physicals, each separate application was proposed to be self-contained. Under the proposed amendments, information for option contracts would continue to be provided by checklist. In addition, the Commission proposed to clarify certain standards for review which have evolved based upon administrative experience and to clarify that exchanges may use information developed by third parties in the application.

Finally, the Commission proposed that a new appendix be added to Part 5 specifying the information that a foreign board of trade should file with the Commission when seeking no-action relief to offer and to sell in the United States a futures contract on a foreign securities index traded on that foreign board of trade.

B. Comments

Two commenters, the Chicago Board of Trade (CBT) and the Minneapolis Grain Exchange (MGE), responded to the notice of proposed rulemaking. Both CBT and MGE favored strongly the Commission's proposed revisions to streamline Guideline No. 1. However, although MGE supported the proposed revisions clarifying the review standards for several of the designation requirements, CBT opposed the proposed clarification of the review standards. The MGE's and the CBT's comments are discussed more fully below.

II. Final Revisions to the Guideline

Based upon thorough and careful consideration of the comments to the proposed rulemaking and its experience in administering the current Guideline as well as the fast-track procedures, the Commission has determined to revise Guideline No. 1.

A. Final Changes to the Guideline's Format

1. Cash Market Overview

Currently, exchanges are required to include a cash market description in their designation application. 17 CFR Part 5, Appendix A (a)(1). To reduce the burden on the exchanges in satisfying the Guideline's cash-market overview standards, the Commission is amending Guideline No. 1, as proposed, to recognize explicitly the acceptability of a variety of materials in fulfillment of this requirement. This final revision permits exchanges to submit cash-market descriptions based not only on material their staffs generate, but also on materials obtained from other sources.⁷ An exchange may develop such material through outside sources during a feasibility study of a proposed contract, as part of the exchange's development and consideration of a proposal or as part of its new product marketing effort. The two commenters, CBT and MGE, both supported this proposed revision. In particular, CBT was of the view that contracts markets using third party materials in support of their designation applications will experience financial and staff resource savings. Specifically, CBT stated that:

[T]hird-party material is often times readily available to contract markets from sources such as trade groups and consultants [and] in prove less expensive to obtain than having a contract market's own staff, which may have limited resources, do the research and compile the data [in support of the application]. Moreover, this data from third parties can prove beneficial in that certain trade groups and consultants may possess a high level of expertise and knowledge of the subject matter in question.⁸

2. Charts Relating to Individual Contract Terms and Conditions

Guideline No. 1 requires exchanges to explain how each major term of a proposed contract, except for those identical to terms the Commission already has approved, is consistent with cash market practices or to justify the reason why the contract terms appropriately are inconsistent with such practices. Under the former Guideline, exchanges submitted this explanation or justification in narrative form. Further to streamline the application process, the Commission is clarifying, as proposed, that an exchange, in lieu of a

allowing the submission of such third party materials, the Commission is not amending the requirement that each application (except for applications for futures) must include a cash-market overview.

The Commission's response to the proposed rulemaking dated September 15, 1998 at p. 2

requirements that must be met in order to be designated as a contract market. Additional comments were received from the Commission's staff. Rep (CCH) ¶ 6430

market's program for compliance with its self-regulatory responsibilities. Generally, the review of these issues is most significant in connection with the first application for a particular board of trade.

narrative description, may complete a chart to provide the required information.⁹ The revised chart format reduces the amount of verbiage and the overall length of designation applications. Both of the commenters agreed that the proposed chart format would benefit contract markets by reducing the amount of paperwork, costs and time necessary to satisfy designation application requirements.

As the Commission noted in the notice of proposed rulemaking, the chart is a template enumerating the significant contract terms and conditions typically contained in most contracts. That template may be modified as necessary to reflect the nature of the particular commodity, the economic characteristics of the commodity or the contract's specific terms and conditions.¹⁰

The designation application includes a brief description of the contract's major terms and conditions. Where the term is consistent with prevailing cash market practices, column 4 may be completed by providing a very brief statement as to how the term or condition comports with cash practices. However, where the term or condition does not comport with cash market practices, a more extensive discussion is required showing why the provision is necessary or appropriate for the hedging or pricing utility of the contract and the overall effect of the provision on deliverable supplies. Consistent with current requirements, no such justification of an individual term or condition is required when that term or condition is the same as one the Commission already approved. For such contract terms, the board of trade should refer in column 2 of the chart to the rule number or other description of the original approved provision.

In keeping with current requirements, the application also requires an exchange to specify exchange speculative position limits. The Commission on April 27, 1999, amended its speculative position limit rules and recodified the provisions of rule 1.61 as rule 150.5. 64 FR 24038 (May 5, 1999). Guideline No. 1 has been amended to conform to the requirements of new rule 150.5. The Guideline No. 1 application forms set

out the operative requirements for exchange speculative position limits at the time of initial designation. Specifically, the spot-month position limits for physical delivery contracts should be set in relation to the contract's deliverable supply estimate¹¹ and for cash-settled contracts should be no greater than necessary to minimize the potential for manipulation or distortion of the contract's or the underlying commodity's price.

Guideline No. 1 incorporates the operative provisions of rule 150.5(a) and (b) that establish the requirements for speculative position limits at the time of initial contract designation. Subsequent amendments to exchange-set speculative position limits which are permitted under other provisions of Commission rule 150.5 are not included on the application form. For example, adjustments to the initial speculative position limits are permitted under Commission rule 150.5(c) as open interest in a contract grows, and various forms of position accountability rules may be substituted for speculative position limits under Commission rule 150.5(e). In addition, exchange speculative position limits are not required for contracts on a "major foreign currency" under Commission rule 150.5(a), and applications for designation of such a contract may simply leave that box of the application blank.

To facilitate the submission of cash-market description data, the Commission is providing, through its Division of Economic Analysis Web Site (www.cftc.gov/dea/dea.html), the charts relating to individual contract terms and conditions, as described above. The exchanges will be able to download these charts onto their own computer systems for completion. The Commission believes that using such electronic charts will reduce the amount of paperwork generated during the designation application process. In addition, the use of these charts will

¹¹ However, it should be noted that spot-month speculative position limits are not a substitute for inadequate deliverable supplies. In this respect, the fact that an exchange may specify a spot-month speculative position limit that equals or is less than the "rule-of-thumb" standard of one-fourth of a low deliverable supply estimate does not mean that deliverable supplies are at adequate levels. The Commission has approved new futures contracts or amended existing futures contracts with low deliverable supplies only after an exchange has exhausted potential sources of deliverable supplies and, if necessary, adopted low spot-month speculative limits to give it the ability to limit potential delivery demand. The preferred approach under the Act if deliverable supplies are inadequate is for the exchange to modify the delivery specifications to enhance deliverable supplies. See section 5a(a)(10) of the Act.

foster more uniform exchange designation application submissions, aiding Commission staff in performing expeditious application reviews.

B. Clarification of Review Standards

As explained in the proposed rulemaking, central to an application for designation is an exchange's demonstration that the proposed contract will not be susceptible to price manipulation or distortion. For physical delivery contracts, this requires a demonstration that the deliverable supplies provided under the contract's terms are adequate, and for cash-settled contracts, this requires that the cash price series to be used for settlement is reliable. In light of the importance of these issues to a designation application, the Commission is clarifying as proposed, these requirements in the Guideline.

The two commenters gave differing views concerning these proposed clarifications. Specifically, MGE favored them and stated that "clarifying the [designation application] information required [is a] welcomed improvement to the application process."¹² CBT, however, opposed the proposed clarifications. In particular, CBT expressed the view that adoption of the proposed revisions would inhibit necessary flexibility during the designation application process.

1. Adequacy of Deliverable Supply

Exchanges are required to demonstrate that proposed contracts provide for deliverable supplies that will not be conducive to price manipulation or distortion. The Commission is clarifying, as proposed, the requirement that an exchange include in its designation application an analysis of the adequacy of deliverable supply, including an estimate of the deliverable supplies for the delivery months specified in the proposed contract. Under the former Guideline, the requirement of an estimate of deliverable supplies was implicit. This final clarification explicitly requires that applications for designation of a physical delivery futures contract include within a separate chart a quantitative estimate of expected deliverable supplies and a description of the methodology used to derive the estimate.

For commodities with seasonal supply or demand characteristics, the deliverable supply analysis should be based on that period when potential supplies typically are at their lowest

¹² See MGE's comment letter to the proposed rulemaking dated September 15, 1998.

⁹ Exchanges still have the option of submitting the required explanation or justification in narrative form if they prefer.

¹⁰ For example, if a contract provides for more than one quality specification under commodity characteristics (e.g., a grade standard as well as a weight specification), the board of trade may add a separate line item to address each commodity characteristic separately. For line items in the chart that are not applicable to the proposed contract, the board of trade should simply indicate "N.A."

levels. The estimate should be based on statistical data when reasonably available covering a period of time that is representative of actual patterns of production and consumption of the commodity. If data are taken from publicly available sources, the board of trade should reference the source material used. If the board of trade independently derives the estimate based on information not readily verifiable or on trade interviews, the Commission may request that the board of trade provide the workpapers or other source materials used in the analysis.

As mentioned above, CBT did not favor the proposed clarifications. In particular, CBT argued that the Commission should provide a more definitive description of deliverable supply for the relevant cash market, as well as explain its "rule-of-thumb" formula for determining spot month speculative limits.¹³ However, the Guideline does provide such guidance on deriving an estimate of deliverable supplies. The estimate of deliverable supplies should be made taking into consideration the terms and conditions specified for the deliverable product and the economic realities of the cash market underlying the futures contract.¹⁴ Thus, for example, it should take into account the deliverable supply which is available when quality and price differentials are applied. For a physical-delivery futures contract, this estimate represents product which is in store at the delivery point(s) specified in the futures contract or economically can be moved into or through such points consistent with the delivery procedures set forth in the contract and which is available for sale on a spot basis within the marketing channels that normally are tributary to the delivery point(s). For contracts that utilize a shipping certificate or similar delivery instrument, the estimate of deliverable supply should reflect the fact that the

underlying commodity may not have to be moved into or through the delivery point(s) prior to delivery of the shipping certificate in the futures market.

For financial instrument contracts, deliverable supply consists of available supplies of the instrument meeting the contract's delivery standards that are available, at prevailing cash market values, to traders wishing to make future delivery. For example, significant quantities of off-the-run notes and bonds typically may be held by the Federal Reserve and long-term investment portfolios (e.g., pension funds) and would not be readily available for delivery on proposed futures contracts on U.S. government debt instruments except at distorted prices. Recognizing this and based on the opinions of knowledgeable industry participants, Commission staff historically has used a rule-of-thumb that only 50 percent of the on-the-run U.S. Treasury bond and 10 percent of each of the next two off-the-run bonds are economically available for delivery.

2. Justification of Cash Settlement Price

The adequacy of the procedures for determining the cash settlement price is central to the Commission's review of proposed cash-settled contracts. Applications for such proposed futures contracts continue to be required to demonstrate that those procedures will result in a cash settlement price which reflects the underlying cash market and is not subject to manipulation or distortion. In order to provide additional guidance to exchanges in meeting this requirement, the Commission is clarifying, as proposed, two of the criteria, which it has identified through past experience for meeting these requirements. In this regard, any cash settlement price which an exchange determines through a survey method to elicit price quotes should include a number of polled entities which is representative of the underlying cash market. In no event, however, may the polling sample include fewer than four unrelated entities that do not take positions for their own account in the futures, option or underlying cash markets. Where the entities to be polled may trade in such markets for their own accounts, a minimum of eight unrelated entities is required.

After thoroughly considering all the comments received and based upon its own analysis, the Commission believes that the Guideline strikes the appropriate balance of providing greater clarification and specificity of the review standards without impeding the

flexibility necessary for an effective designation application review process.

C. Foreign Futures Markets

The offer or sale in the United States of futures contracts traded on or subject to the rules of a foreign board of trade is subject to the Commission's exclusive jurisdiction.¹⁵ Although Section 2(a)(1)(B)(ii) of the Act provides that the Commission shall not designate a board of trade as a contract market in a futures on a securities index unless the Commission finds that the board of trade meets three enumerated criteria.¹⁶ Congress understood that a foreign board of trade would not necessarily have to obtain contract designation in order to offer futures contracts on stock indexes. Thus, the House Committee on Agriculture suggested that a foreign board of trade could apply for "certification" that its stock index contract meets all applicable Commission requirements. H.R. Rep. No. 565, Part 1, 97th Cong., 2d Sess. 85 (1982). That Committee further explained that a foreign board of trade seeking to offer and to sell, to persons located in the United States, a futures contract based upon an index of United States securities must demonstrate that the proposed futures contract meets the requirements set forth in Section 2(a)(1)(B)(ii). *Id.* With regard to a foreign exchange traded futures contract based on "foreign securities," the House Committee suggested that the Commission use such criteria as it deems appropriate.

The Commission has not promulgated procedures for foreign boards of trade filing requests to offer or to sell such contracts, but instead its staff has issued "no-action" letters¹⁷ regarding foreign

¹⁵ Section 2(a)(1)(A), 7 U.S.C. 2 (1982); 120 Cong. Rec. 34497 (1974) (statement of Senator Talmadge) (the terms "any other board of trade, exchange, or market" in Section 2(a)(1)(A) make clear the Commission's exclusive jurisdiction includes futures contracts executed on a foreign board of trade, exchange or market).

¹⁶ These three criteria in Section 2(a)(1)(B)(ii) are:
(1) The contract must provide for cash settlement;
(2) The proposed contract will not be readily susceptible to manipulation or to being used to manipulate any underlying security; and
(3) The index is predominately composed of the securities of unaffiliated issuers and reflects the market for all publicly traded securities or a substantial segment thereof.

A no-action letter is a written statement issued by the staff of a specific division of the Commission or the Office of the General Counsel that it will not recommend enforcement action to the Commission if a proposed transaction is completed or a proposed activity is conducted by the beneficiary. A no-action letter represents the position only of the division that issued it, or the Office of the General Counsel if issued thereby. A no-action letter binds only the issuing division or the Office of the General Counsel, as applicable, and not the Commission or other Commission staff. Further, a

¹³ In its comments to the proposed rulemaking, CBT reasserts the arguments it made in a proceeding instituted by the Commission under Section 5(a)(10) of the Act concerning the delivery specifications for CBT's corn and soybeans futures contracts. See: 62 FR 60831 (November 13, 1997) (Commission Order changing and supplementing under Section 5(a)(10) of the Act delivery terms for the CBT's corn and soybeans futures contracts). The Commission's determination in that proceeding was based on the application of the standards of Guideline No. 1 and Section 5(a)(10) of the Act to the particular facts of those markets. The clarification of Guideline No. 1 as proposed is independent of its specific determination in that proceeding.

¹⁴ Only product meeting the specified quality standards (e.g., the grade, age, purity, weight, etc. for tangible commodities or the issue, maturity, rating, etc. for financial instruments) is eligible for delivery on a futures contract and should be considered as part of the deliverable supply.

stock index contracts based on foreign securities using the criteria set forth in Section 2(a)(1)(B)(ii) of the Act. As of March 16, 1999, such action has been taken for 24 stock index contracts for offer or sale to persons located in the U.S. submitted by 15 foreign boards of trade.

As detailed in the notice of proposed rulemaking at 63 FR 38540, the staff has analyzed such requests for a "no-action" opinion under the requirements of Section 2(a)(1)(B)(ii) of the Act. Accordingly, the staff has requested that the foreign board of trade file information that the staff deems relevant to those criteria. To facilitate the staff's review of such requests by foreign boards of trade, the Commission is adding, as proposed, a separate appendix to Part 5 enumerating the information that foreign boards of trade should file with the Commission to assist in the staff's analysis of such requests. Some of the data which should be included are: the terms and conditions of the contract and all other relevant rules of the exchange; information on information sharing arrangements or any legal obstacles to such sharing of information; and specific information related to the composition and computation of the index. All information should be submitted in English, including any supplemental material such as explanatory notes, appended tables or charts. It should be noted that, in particular instances, the Commission consults with the Securities and Exchange Commission (SEC) regarding these contracts. When such consultation occurs, the SEC may request additional information.

III. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et seq.*, requires that agencies consider the impact of those rules on small entities. The Commission has previously determined

that contract markets are not "small entities" for purposes of the RFA, 5 U.S.C. 601 *et seq.* 47 FR 18618 (April 30, 1982). These final amendments establish alternative streamlined procedures for Commission review and approval of contract market designation applications and of amendments to contract terms and conditions. Accordingly, the Chairperson, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that the action taken herein will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

When publishing final rules, the Paperwork Reduction Act ("PRA") of 1995 (Pub. L. 104-13 (May 13, 1995)) imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as the PRA defines. In compliance with the Act, these final rules inform the public of:

(1) The reason the information is planned to be and/or has been collected; (2) the way such information is planned to be and/or has been used to further the proper performance of the functions of the agency; (3) an estimate, to the extent practicable, of the average burden of the collection (together with a request that the public direct to the agency any comments concerning the accuracy of this burden estimate and any suggestions for reducing this burden); (4) whether responses to the collection of information are voluntary, required to obtain or retain a benefit or mandatory; (5) the nature and extent of confidentiality to be provided, if any; and (6) the fact that any agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The Commission previously submitted this rule and its associated information collection requirements to the Office of Management and Budget. The Office of Management and Budget approved the collection of information associated with this rule on October 24, 1998, and assigned OMB control number 3038-0022 to the rule. The burden associated with this entire collection (3038-0022) including this final rule, is as follows:

Average burden hours per response: 3.609
Number of Respondents: 15,693.
Frequency of response: on Occasion.
 The burden associated with this specific rule is as follows:
Average burden hours per response: 58.

Number of Respondents: 11.

Frequency of response: on Occasion.

Person wishing to comment on the information this final rule requires should contact the Desk Officer, CFTC, Office of Management and Budget, Room 10202, NEOB, Washington, DC 20503, (202) 395-7340. Copies of the information collection submission to OMB are available from the CFTC Clearance Officer, 1155 21st Street, NW, Washington, DC 20581, (202) 418-5160.

Copies of the OMB-approved information collection package associated with this rulemaking may be obtained from Desk Officer, Commodity Futures Trading Commission, Office of Management and Budget, Room 10202, NEOB Washington, D.C. 20503, (202) 395-7340.

List of Subjects in 17 CFR Part 5

Commodity futures, Contract markets, Designation application, Reporting and recordkeeping requirements.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act, and particular sections 4c, 5, 5a, 6 and 8a, 7 U.S.C. 6c, 7, 7a, 8, and 12a, the Commission hereby amends Chapter I of Title 17 of the Code of Federal Regulations by amending Part 5 as follows:

PART 5—DESIGNATION OF AND CONTINUING COMPLIANCE BY CONTRACT MARKETS

1. The authority citation for Part 5 continues to read as follows:

Authority: 7 U.S.C. 6c, 7, 7a, 8 and 12a.

2. In Part 5, Appendix A is revised to read as follows:

Appendix A to Part 5—Guideline No. 1: Interpretative Statement Regarding Economic and Public Interest Requirements for Contract Market Designation

a) Application for Designation of Physical Delivery Futures Contracts

A board of trade shall submit:

(1) The rules setting forth the terms and conditions of the futures contract.

(2) A description of the cash market for the commodity on which the contract is based.

(i) The description may include, in addition to or in lieu of materials prepared by the board of trade, existing studies by industry trade groups, academics, governmental bodies or other entities, reports, consultants, or other materials which provide a description of the underlying cash market.

(ii) Where the same, or a closely related commodity, is already designated as a contract market which and is not dormant the cash market description can be confined to those aspects relevant to particular term(s) or condition(s) which differ from such existing contract.

(3) A demonstration that the terms and conditions, as a whole, will result in a deliverable supply such that the contract will not be conducive to price manipulation or distortion and that the deliverable supply

reasonably can be expected to be available to spot traders and salable by spot traders in the cash market through established trading channels.

For purposes of this demonstration, provide the following information in chart or narrative form.

CONTRACT TERMS AND CONDITIONS

Term or condition	Exchange proposal	Rule number of identical approved provision, if any ¹	Explanation as to consistency with, or reason for variance from cash market practice
1. Commodity characteristics (e.g., grade, quality, weight, class, growth, origin, maturity, source, rating, etc.)			
2. Any quality differentials for nonpar deliveries, or lack thereof			
3. Delivery points/region			
4. Any locational differentials for nonpar deliveries, or lack thereof			
5. Delivery facilities (type, number, capacity, ownership)			
6. Contract size and/or trading unit			
7. Delivery pack or composition of delivery units			
8. Delivery instrument (e.g., warehouse receipt, shipping certificate, bill of lading)			
9. Transportation terms (e.g., FOB, CIF, prepay freight to destination)			
10. Delivery procedures			
11. Delivery months			
12. Delivery period and last trading day			
13. Inspection/certification procedures (verification of delivery eligibility, any discounts applied for age)			
14. Minimum price change (tick) equal to or less than cash market minimum price increment			
15. Daily price limit provisions (note relationship to cash market price movements)			

DELIVERABLE SUPPLIES—ESTIMATE OF DELIVERABLE SUPPLIES FOR TRADING MONTH(S) WITH LOWEST SUPPLIES

ESTIMATION METHODOLOGY

¹ If an identical provision has been approved for a nondormant contract in the same commodity, there is no need to provide an explanation in the next column.

No estimate of deliverable supply is needed if a previously designated nondormant contract is trading. Also, no justification of the spot month limit is needed if the limit is the same as that approved by the Commission for an identical contract in that commodity (relative to the quantity or value of the identical contract). Where more than one contract is based on the same underlying commodity or instrument, positions should be combined for purposes of applying speculative limits.

TERMS AND CONDITIONS RELATED TO SPECULATIVE LIMITS

Speculative limit	Standard	Level (exchange rule)
1. Spot month	No greater than one-fourth of estimated deliverable supply	
2. Nonspot individual month or all months combined (financial and energy contract)	5,000 contract	
3. Nonspot individual month or all months combined (tangible commodity contracts)	1,000 contracts	
4. Reporting level	Equal to or less than levels specified in CFTC rule 15.03	
5. Aggregation rule	Same as CFTC rule 150.5(g) or previously approved language	

(4) As specifically requested, such additional evidence, information or data relating to whether the contract meets, initially or on a continuing basis, any of the specific requirements of the Act, including the public interest standard contained in Section 5(7) of the Act, and whether the contract reasonably can be expected to be, or has been, used for hedging and/or price basing on more than an occasional basis, or any other requirement for designation under the Act or Commission rules and policies.

(b) Application for Cash Settled Futures Contracts

A board of trade shall submit:

- (1) The rules setting forth the terms and conditions of the proposed futures contract
- (2) A description of the cash market for the commodity on which the contract is based.
 - (i) The description may include, in addition to or in lieu of materials prepared by the board of trade, existing studies by industry trade groups, academics, governmental bodies or other entities, reports of consultants, or other materials which provide a description of the underlying cash market.
 - (ii) Where the same, or a closely related commodity, is already designated as a contract market which is not dormant, the cash market description can be confined to

those aspects relevant to particular term(s) or conditions(s) which differ from such existing contract.

(3) A demonstration that cash settlement of the contract is at a price reflecting the underlying cash market, will not be subject to manipulation or distortion, and is based on a cash price series that is reliable, acceptable, publicly available and timely.

For purposes of this demonstration, provide the following information in chart or narrative form.

CONTRACT TERMS AND CONDITIONS

Term or condition	Rule number of identical approved provision, if any ¹	Explanation as to consistency with, or reason for variance from, cash market practice
1. Commodity characteristics (e.g., grade, quality, weight, class, growth, issuer maturity, source, rating, etc.)		
2. Delivery months, noting any cyclical variations in trading activity that may affect the potential for manipulating the cash settlement price		
3. Last trading day		
4. Contract size		
5. Minimum price change (tick)		
6. Daily price limit provisions, relative to cash market price movements.		

¹ If a identical provision has been approved for a nondormant contract in the same commodity, there is not need to provide an explanation in the next column.

TERMS AND CONDITIONS RELATED TO CASH SETTLEMENT PRICE SERIES

Requirement	Rule number of identical approved provision	Explanation or justification
1. Where an independent third party calculate the cash settlement price series, evidence that the third party does not object to its use and provides safeguards against susceptibility to manipulation		
2. Where board of trade generates cash settlement price series, specifications of calculation procedure and safeguards in cash settlement process to protect against susceptibility to manipulation (e.g., if self-generated survey, polling sample representative of cash market, but with a minimum of 4 non-trading entities or 8 entities that trade for own account)		
3. Procedure for, and timeliness of, dissemination to public		
4. Evidence that price is reliable indicator of cash market values and acceptable for hedging		

TERMS AND CONDITIONS RELATED TO SPECULATIVE LIMITS

Speculative limit	Standard	Level (exchange rule)
1. Spot month	Must be no greater than necessary to minimize the potential for manipulation or distortion of the contract's or the underlying commodity's price.	
2. Nonspot individual month or all months combined (financial and energy contracts)	5,000 contracts	
3. Nonspot individual month or all months combined (tangible commodity contracts)	1,000 contracts	
4. Reporting level	Equal to or less than levels specified in CFTC rule 15.03	
5. Aggregation rule	Same as CFTC rule 150.5(g) or previously approved language	

(4) As specifically requested, such additional evidence, information or data relating to whether the contract meets, initially or on a continuing basis, any of the specific requirements of the Act, including the public interest standard contained in Section 5(7) of the Act, and whether the contract reasonably can be expected to be, or has been, used for hedging and/or price basing on more than an occasional basis, or any other requirement for designation under the Act or Commission rules and policies.

(c) Application for Option Contracts

A board of trade shall submit:

(1) The rules setting forth the terms and conditions of the proposed option contract

(2)(i) For options on futures contracts, the terms and conditions of the proposed or existing underlying futures contract.

(2)(ii) For options on physical commodities:

(A) A description of the cash market for the commodity on which the contract is based.

(1) The description may include, in addition to or in lieu of material prepared by the board of trade: existing studies by industry trade groups, academics, governmental bodies or other entities; promotional or marketing materials prepared

by or for the board of trade; reports of consultants; or other materials which provide a description of the underlying cash market.

(2) Where the same, or a closely related commodity, is already designated and is not dormant, the cash market description can be confined to those aspects relevant to particular term(s) or condition(s) which differ from such existing contract

(B) Depending on the method of settling the option, the relevant chart for either a physical delivery or cash settled futures contract.

(3) The following completed chart.

TERMS AND CONDITIONS

Criteria	Applicable CFTC Rule (17 CFR)	Standard	Met by exchange rule number	Justification for not meeting stand- ard, or rule num- ber of identical ap- proved rule
1. Speculative limits	151.6	Commodity that consists of futures and options on a futures-equivalent basis at the futures position level, with inter-month spread exemptions that are consistent with those of the futures contracts not consistent with Commission Rule 151.6 for underlying future.		
2. Aggregation rule	151.4	Same as Rule 150.5(g) or previously approved language		
3. Reporting level	151.1-1.2	FD contracts or fewer		
4. Strike prices (number listed & increments)	151.1-1.1	Procedures for listing listing of strikes are specified and automatic procedures for listing discretionary strikes are specified		
5. Option expiration & last trading day	151.4 b-2	Except for options on cash-settled futures contracts, expiration is not less than one business day before the earlier of the last trading day or the first notice day of the underlying future		
6. Minimum tick	151.4(d)	Equal to, or less than the underlying futures tick		
7. Daily price limit if specified	151.4(d)	Equal to, or greater than the underlying futures price limit		

(4) As specifically requested, such additional evidence, information, data relating to whether the contract meets, initially or on a continuing basis, any of the specific requirements of the Act, including the public interest standard contained in Section 5(7) of the Act, or any other requirement for designation under the Act or Commission rules and policies.

3. Part 5 is amended by adding new Appendix E to read as follows:

Appendix E—Information That a Foreign Board of Trade Should Submit When Seeking No-Action Relief to Offer and Sell, to Persons Located in the United States, a Futures Contract on a Foreign Securities Index Traded on That Foreign Board of Trade

A foreign board of trade seeking no-action relief to offer and to sell, to persons located in the U.S., a futures contract on a foreign securities index traded on that foreign board of trade should submit the following in English:

(1) The terms and conditions of the contract and all other relevant rules of the exchange and, if applicable, of the exchange on which the underlying securities are traded, which have an effect on the over-all trading of the contract, including circuit breakers, price limits, position limits or other controls on trading;

(2) Surveillance agreements between the foreign board of trade and the exchange(s) on which the underlying securities are traded;

(3) Information sharing agreements between the host regulator and the Commission or assurances of ability and willingness to share information with the Commission and assurances from the foreign board of trade of its ability and willingness to share information with the Commission, either directly or indirectly.

(4) When applicable, information regarding foreign blocking statutes and their impact on the ability of United States government

agencies to obtain information concerning the financing of such activities; and

(i) Information and data required by U.S. dollar policy; and

(ii) The method of calculation of the index, and the basis of the index.

(iii) The total capitalization (number of stocks (including the number of unaffiliated issuers if different from the number of stocks) and weighting of the stocks by capitalization and, if applicable, by price in the index;

(iv) Breakdown of the index by industry segment including the capitalization and weight of each industry segment;

(v) Procedures and criteria for selection of individual securities for inclusion in or removal from the index, how often the index is regularly reviewed, and any procedures for changes in the index between regularly scheduled reviews;

(vi) Method of calculation of the cash-settlement price and the timing of its public release;

(vii) Average daily volume of trading by calendar month, measured by share turnover and dollar value, in each of the underlying securities for a six month period of time and, separately, the daily volume in each underlying security for six expirations (cash-settlement dates) or for the six days of that period on which cash-settlement would have occurred had each month of the period been an expiration month; and

(viii) If applicable, average daily futures trading volume.

Issued in Washington, D.C. this 25th day of May, 1999, by the Commodity Futures Trading Commission.

Jean Webb,

Secretary of the Commission

[FR Doc. 99-13780 Filed 5-28-99; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 173

[Docket No. 97F-0450]

Secondary Direct Food Additives Permitted in Food for Human Consumption; Boiler Water Additives

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of sorbitol anhydride esters, an emulsifier blend of sorbitan monostearate, polyoxyethylene (20) sorbitan monostearate (polysorbate 60), and polyoxyethylene (20) sorbitan monolaurate (polysorbate 20) as an anticorrosive agent in boilers where steam may contact food. This action is in response to a petition filed by Nalco Chemical Co.

DATES: This regulation is effective June 1, 1999; written objections and requests for a hearing by July 1, 1999. The Director of the Office of the Federal Register approves the incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 of a certain publication in § 173.310 (21 CFR 173.310), effective June 1, 1999.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration,

5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Martha D. Peiperl, Center for Food Safety and Applied Nutrition (HFS-215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-418-3077.

SUPPLEMENTARY INFORMATION:

I. Background

In a notice published in the **Federal Register** of November 13, 1997 (62 FR 60903), FDA announced that a food additive petition (FAP 7A4540) had been filed by Nalco Chemical Co., One Nalco Center, Naperville, IL 60568-1198. The petition proposed to amend the food additive regulations in § 173.310 *Boiler water additives* to provide for the safe use of an emulsifier blend containing sorbitan monostearate, polyoxyethylene (20) sorbitan monostearate, and polyoxyethylene (20) sorbitan monolaurate as an anticorrosive agent in boilers where steam may contact food. The emulsifier blend is a simple mixture of these three substances, each of which is an ester of sorbitol anhydride. For convenience of listing of the mixture, the agency chooses to use the name sorbitol anhydride esters (SAHE) for this additive.

Sorbitan monostearate is currently approved in § 73.1001 (21 CFR 73.1001) as a diluent in color additive mixtures for drug use exempt from certification; in § 172.515 (21 CFR 172.515) as a synthetic flavoring substance and adjuvant; in 21 CFR 172.842 as an emulsifier; and in § 173.340 (21 CFR 173.340) as a defoaming agent. Polyoxyethylene (20) sorbitan monostearate (polysorbate 60) is currently approved in § 73.1001 as a diluent in color additive mixtures for drug use exempt from certification; in § 172.515 as a synthetic flavoring substance and adjuvant; in 21 CFR 172.836 as an emulsifier, foaming agent, dough conditioner, dispersing agent, and surfactant and wetting agent; and in § 173.340 as a defoaming agent. Polyoxyethylene (20) sorbitan monolaurate (polysorbate 20) is currently approved in § 172.515 as a synthetic flavoring substance and adjuvant.

In its evaluation of the safety of SAHE, FDA has reviewed the safety of the three esters and the chemical impurities that may be present in them resulting from their manufacturing process. Because these three esters have similar chemical structures, which do not react with each other, FDA has determined that its safety review for

each of the three esters would be the same as that for the SAHE mixture. Therefore, FDA refers to each ester, rather than the additive as a whole, in its evaluation of the safety of SAHE in this final rule.

Although none of the esters have been shown to cause cancer, two of them (polysorbate 20 and polysorbate 60) may contain minute amounts of unreacted 1,4-dioxane (DX) and ethylene oxide (EO), which are carcinogenic impurities resulting from their manufacture. Residual amounts of impurities are commonly found in chemical products, including food additives.

II. Determination of Safety

Under the general safety standard section of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348(c)(3)(A)), a food additive cannot be approved for a particular use unless a fair evaluation of the data available to FDA establishes that the additive is safe for that use. FDA's food additive regulations (21 CFR 170.3(i)) define safe as "a reasonable certainty in the minds of competent scientists that the substance is not harmful under the intended conditions of use."

The food additives anticancer, or Delaney, clause of the act (21 U.S.C. 348(c)(3)(A)) provides that no food additive shall be deemed safe if it is found to induce cancer when ingested by man or animal. Importantly, however, the Delaney clause applies to the additive itself and not to impurities in the additive. That is, where an additive itself has not been shown to cause cancer, but contains a carcinogenic impurity, the additive is properly evaluated under the general safety standard using risk assessment procedures to determine whether there is a reasonable certainty that no harm will result from the intended use of the additive. (*Scott v. FDA*, 728 F.2d 322 (6th Cir. 1984)).

III. Safety of Petitioned Use of the Additive

FDA estimates that the petitioned use of SAHE will result in a maximum daily dietary exposure to each ester of approximately 0.8 part per million. This corresponds to an estimated daily intake (EDI) of 2.5 milligrams per person per day (/p/d) of each ester (Ref. 1).

The agency has reviewed the available toxicological data on the three sorbitol anhydride esters. Based on the available toxicology data for sorbitan monostearate and polysorbate 60 and the fact that their additional dietary exposure from the proposed use would be small compared to that from their currently regulated uses, the agency

concludes that the estimated dietary exposure resulting from the petitioned use of these two esters is safe. The agency also finds that polysorbate 60 and polysorbate 20 would hydrolyze to similar breakdown products under the proposed conditions of use, the only difference being the chain length of the fatty acid residue (C_{12} for polysorbate 20 and C_{16} or C_{18} for polysorbate 60). Based on the chemical similarities between polysorbate 60 and polysorbate 20, the agency concludes that the toxicology data for polysorbate 60 can be used to support the safety of polysorbate 20 under their limited exposure anticipated from the petitioned use of SAHE.

Moreover, based on the agency's review of the estimated dietary exposure from all three esters in SAHE, the agency concludes that the estimated small dietary exposure resulting from the proposed use of this additive is safe.

Under the proposed conditions of use, any residual EO will quantitatively react with the boiler water to form ethylene glycol (Ref. 1). Thus, no EO will be present in the steam that contacts food. Consequently, the exposure to EO from the petitioned use of SAHE will be zero. Therefore, FDA has evaluated the safety of this additive under the general safety standard, considering all available data and using risk assessment procedures to estimate the upper-bound limit of lifetime human risk presented by DX, a carcinogenic chemical that may be present as an impurity in two of the components of the additive (polysorbate 20 and polysorbate 60). This risk evaluation of DX has two aspects: (1) Assessment of the exposure to the impurity from the petitioned use of the additive, and (2) extrapolation of the risk observed in the animal bioassay to the conditions of exposure to humans.

A. 1,4-Dioxane

FDA has estimated the exposure to DX from the petitioned use of the additive as an anticorrosive agent in boilers where steam may contact food to be no more than 17 parts per trillion in the daily diet (3 kilograms), or 50 nanograms (ng)/p/d (Ref. 1). The agency used data from a carcinogenesis bioassay on DX, conducted by the National Cancer Institute (Ref. 2), to estimate the upper-bound limit of lifetime human risk from exposure to this chemical resulting from the petitioned use of the additive. The results of the bioassay on DX demonstrated that the material was carcinogenic for female rats under the conditions of the study. The authors reported that the rodent bioassay showed that the test material caused a significantly increased incidence of

squamous cell carcinomas and hepatocellular tumors in female rats

Based on the agency's estimate that exposure to DX will not exceed 50 ng p/d, FDA estimates that the upper-bound limit of lifetime human risk from the petitioned use of the subject additive is 1.8×10^{-9} or 1.8 in a billion (Ref. 3). Because of the numerous conservative assumptions used in calculating the exposure estimate, the actual lifetime-averaged individual exposure to DX is likely to be substantially less than the estimated exposure, and therefore, the probable lifetime human risk would be less than the upper-bound limit of lifetime human risk. Thus, the agency concludes that there is reasonable certainty that no harm from exposure to DX would result from the petitioned use of the additive.

B. Need for Specifications

The agency has also considered whether specifications are necessary to control the amount of DX present as an impurity in SAHE. The agency finds that new specifications are not necessary for the following reasons: (1) Because of the low levels at which DX may be expected to remain as an impurity following production of SAHE, the agency would not expect the impurity to become a component of food at other than extremely low levels; and (2) the upper-bound limit of lifetime human risk from exposure to DX is very low, 1.8 in a billion.

IV. Conclusion

FDA has evaluated data in the petition and other relevant material. Based on this information, the agency concludes that the proposed use of the additive as an anticorrosive agent in boilers where steam may contact food is safe, that the additive will achieve its intended technical effect, and therefore, that the regulations in § 173.310 should be amended as set forth below in this document.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety

and Applied Nutrition by appointment with the information contact person listed previously. As provided in § 171.1(h), the agency will delete from the documents and materials that are not available for public disclosure before making the documents available for inspection.

V. Environmental Impact

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

VI. Paperwork Reduction Act of 1995

This final rule contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

VII. Objections

Any person who will be adversely affected by this regulation may at any time on or before July 1, 1999, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a

waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

VIII. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Memorandum, dated April 20, 1998, from the Division of Product Manufacture and Use (HFS-246) to the Division of Petition Control (HFS-215).
2. "Bioassay of 1,4-Dioxane for Possible Carcinogenicity," National Cancer Institute, NCI-CG-TR-80, 1978.
3. Memorandum, dated June 19, 1998, from the Division of Petition Control (HFS-215) to Executive Secretary, Quantitative Risk Assessment Committee (QRAC) (HFS-308).

List of Subjects in 21 CFR Part 173

Food additives, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 173 is amended as follows:

PART 173—SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION

1. The authority citation for 21 CFR part 173 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348

2. Section 173.310 is amended in the table in paragraph (c) by alphabetically adding an entry for "sorbitol anhydride esters" under the headings "Substances" and "Limitations" to read as follows:

§ 173.310 Boiler water additives.

* * * * *

(c) * * *

Substances

Limitations

Sorbitol anhydride esters: a mixture consisting of sorbitan monostearate as defined in § 172.842 of this chapter; polysorbate 60 ((polyoxyethylene (20) sorbitan monostearate)) as defined in § 172.836 of this chapter; and polysorbate 20 ((polyoxyethylene (20) sorbitan monolaurate)), meeting the specifications of the Food Chemicals Codex, 4th ed. (1996), pp. 306-307, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Box 285, Washington, DC 20055 (Internet <http://www.nap.edu>), or may be examined at the Center for Food Safety and Applied Nutrition's Library, Food and Drug Administration, 200 C St. SW., rm. 3321, Washington, DC, or at the Office of the Federal Register, 800 North Capitol St. NW., suite 700, Washington, DC.

The mixture is used as an anticorrosive agent in steam boiler distribution systems, with each component not to exceed 15 parts per million in the steam.

Dated: May 22, 1999

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 99-13670 Filed 5-28-99; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF DEFENSE

Defense Logistics Agency

32 CFR Part 171

RIN 0790-AG68

Implementation of Wildfire Suppression Aircraft Transfer Act of 1996

AGENCY: Defense Logistics Agency (DLA), DoD.

ACTION: Interim final rule.

SUMMARY: The Wildfire Suppression Aircraft Transfer Act of 1996 states that, notwithstanding section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483) and subject to subsections (b) and (c), the Secretary of Defense may, during the period beginning on October 1, 1996, and ending on September 30, 2000, sell certain aircraft and aircraft parts to persons or entities that contract with the Federal Government for the delivery of fire retardant by air in order to suppress wildfire. The Act states that, as soon as practicable after the date of the enactment of the Act, the Secretary of Defense shall, in consultation with the Secretary of Agriculture and the Administrator of General Services, prescribe regulations relating to the sale of aircraft and aircraft parts under this section. This interim final rule prescribes regulations to implement the

Wildfire Suppression Aircraft Transfer Act of 1996.

DATES: Effective June 1, 1999 through September 30, 2000. Comments are requested by August 2, 1999.

ADDRESSES: Forward comments to: Defense Logistics Agency, Defense Logistics Support Command, ATTN: DLSC-LC, Suite 4222, 8725 John J. Kingman Road, Ft. Belvoir, VA 22060-6221.

FOR FURTHER INFORMATION CONTACT: Michael Stubblebine, (703) 767-1537.
SUPPLEMENTARY INFORMATION:

I. Background

The Wildfire Suppression Aircraft Transfer Act of 1996 states that, notwithstanding section 202 of the Federal Property and Administration Services Act of 1949 (40 U.S.C. 483) and subject to subsections (b) and (c), the Secretary of Defense may, during the period beginning on October 1, 1996, and ending on September 30, 2000, sell certain aircraft and aircraft parts to persons or entities that contract with the Federal Government for the delivery of fire retardant by air in order to suppress wildfire. The Act states that, as soon as practicable after the date of the enactment of the Act, the Secretary of Defense shall, in consultation with the Secretary of Agriculture and the Administrator of General Services, prescribe regulations relating to the sale of aircraft and aircraft parts under this section. This interim rule prescribes such regulations.

II. Administrative Requirements

A. Executive Order 12866

It has been determined that 32 CFR part 171 is not a significant regulatory action. The rule does not (1) have an annual effect on the economy of \$100

million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of the recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

B. Regulatory Flexibility Act

It has been determined that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. This rule applies only to the sale of certain aircraft and aircraft parts to those entities that contract for the delivery of fire retardant by air in order to suppress wildfire. The U.S. Department of Agriculture provides the list of eligible entities that may bid on aircraft and aircraft parts.

C. Paperwork Reduction Act

It has been certified that 32 CFR part 171 does not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 44).

List of Subjects in 32 CFR Part 171

Aircraft, Fire prevention.

Accordingly, 32 CFR Part 171 is added to read as follows:

PART 171—IMPLEMENTATION OF WILDFIRE SUPPRESSION AIRCRAFT TRANSFER ACT OF 1996

- § 171.1 Background and purpose.
- § 171.2 Applicability.
- § 171.3 Restrictions.
- § 171.4 Qualifications.
- § 171.5 Sale procedures.
- § 171.6 Reutilization and transfer.
- § 171.7 Reporting requirements.
- § 171.8 Expiration.

Authority: 10 U.S.C. 2516 note

§ 171.1 Background and purpose.

The Wildfire Suppression Aircraft Transfer Act of 1996 (the "Act") allows the Department of Defense (DoD), during the period 1 October 1996 through 30 September 2000, to sell aircraft and aircraft parts to entities that contract with the Federal government for the delivery of fire retardant by air in order to suppress wildfire. This part implements the Act.

§ 171.2 Applicability.

The regulations in this part apply to aircraft and aircraft parts determined to be DoD excess under the definition of the Federal Property Management Regulations (FPMR) and listed in Attachment 1 of Chapter 4 of DoD 4160.21-M as Category A aircraft authorized for commercial use.

§ 171.3 Restrictions.

Aircraft and aircraft parts sold under the Act shall be used only for wildfire suppression purposes and shall not be flown or removed from the U.S. unless dispatched by the National Interagency Fire Center in support of an international agreement to assist in wildfire suppression, or for other purposes jointly approved in advance, in writing, by the Secretary of Defense and the Secretary of Agriculture.

§ 171.4 Qualifications.

The Secretary of Agriculture must certify in writing to the Secretary of Defense prior to sale that the person or entity is capable of meeting the terms and conditions of a contract to deliver fire retardant by air.

(a) Prior to sales offerings of aircraft or aircraft parts, the U.S. Department of Agriculture (USDA) must provide to the Defense Reutilization and Marketing Service (DRMS), in writing, a list of persons or entities eligible to bid under this Act, including expiration date of each USDA contract, and locations covered by the USDA contract.

(b) This requirement may not be delegated to the U.S. Forest Service (USFS).

§ 171.5 Sale procedures.

Disposal of aircraft and aircraft parts must be in accordance with the provisions of Chapter 4 of DoD 4160.21-M, paragraph B 2, and with other pertinent parts of this manual, with the following changes and additions:

(a) Sales shall be limited to the aircraft types listed in Attachment 1 of Chapter 4 of DoD 4160.21-M, and parts thereto (i.e., no aircraft or aircraft parts listed as Munitions List Items on the State Department's U.S. Munitions List).

(b) Sales shall be made at fair market value (FMV), as determined by the Secretary of Defense and, to the extent practicable, on a competitive basis.

(1) DRMS must conduct sales utilizing FMVs that are either provided by the Military Services on the Disposal Turn-In Documents (DTIDs) or based on DRMS' professional expertise and knowledge of the market. Advice regarding FMV shall be provided to DRMS by USDA, as appropriate.

(2) If the high bid for a sales item does not equal or exceed the FMV, DRMS is vested with the discretion to reject all bids and reoffer the item:

(i) On another wildfire suppression sale if there is indication that reoffer may be successful, or,

(ii) With DLA concurrence, as normal surplus under the FPMR if there is no such indication.

(3) Disposition of proceeds from sale of aircraft under the Act will be as prescribed in guidance from the Under Secretary of Defense (Comptroller).

(c) Purchases shall certify that aircraft and aircraft parts will be used only in accordance with conditions stated in § 171.3.

(1) Sales solicitations will require bidders to submit end-use certificates with their bids, stating the intended use and proposed areas of operations.

(2) The completed end-use certificates shall be used in the bid evaluation process.

(d) Sales contracts shall include terms and conditions for verifying and enforcing the use of the aircraft and aircraft parts in accordance with provisions of this guidance.

(1) The DRMS Sales Contracting Officer (SCO) is responsible for verifying and enforcing the use of aircraft and aircraft parts in accordance with the terms and conditions of the sales contract.

(i) Sales contracts include provisions for on-site visits to the purchaser's place(s) of business and/or worksite(s).

(ii) Sales contracts require the purchaser to make available to the SCO, upon his or her request, all records concerning the use of aircraft and aircraft parts.

(2) USDA shall nominate in writing, and the SCO shall appoint, qualified Government employees (not contract employees) to serve as Contracting Officer's Representatives (CORs) for the purpose of conducting on-site verification and enforcement of the use of aircraft and aircraft parts for those purposes permitted by the sales contract.

(i) COR appointments must be in writing and must state the COR's duties, the limitations of the appointment, and the reporting requirements.

(ii) USDA bears all COR costs.

(iii) The SCO may reject any COR nominee for cause, or terminate any COR appointment for cause.

(3) Sales contracts require purchasers to comply with the Federal Aviation Agency (FAA) requirements in Chapter 4 of DoD 4160.21-M, paragraphs B 2 b (4)(d)2 through B 2 b (4)(d)5.

(4) Sales contracts require purchasers to comply with the Flight Safety Critical Aircraft Parts regime in Chapter 4 of DoD 4160.21-M, paragraph B 26 c and d, and in Attachment 3 of Chapter 4 of DoD 4160.21-M.

(5) Sales contracts require purchasers to obtain the prior written consent of the SCO for resale of aircraft or aircraft parts purchased from DRMS under this Act. Resales are only permitted to other entities which, at time of resale, meet the qualifications required of initial purchasers. The SCO must seek, and USDA must provide, written assurance as to the acceptability of a prospective repurchaser before approving resale. Resales will normally be approved for air tanker contracts which have completed their contracts, or which have had their contracts terminated, or which can provide other valid reasons for seeking resale which are acceptable to the SCO.

(i) If it is determined by the SCO that there is no interest in the aircraft or aircraft parts being offered for resale among entities deemed qualified repurchasers by USDA, the SCO may permit resale to entities outside the air tanker industry.

(ii) When an aircraft or aircraft parts are determined to be uneconomically repairable and suitable only for cannibalization and/or scrapping, the purchaser shall advise the SCO in writing and provide evidence in the form of a technical inspection document from a qualified FAA airframe and powerplant mechanic, or equivalent.

(iii) The policy outlined in paragraph (d)(5) of this section also applies to resales by repurchasers, and to all other manner of proposed title transfer (including, but not limited to, exchanges and barter).

(iv) Sales of aircraft and aircraft parts under the Act are intended for principals only. Sales offerings will caution prospective purchasers not to buy with the expectation of acting as brokers, dealers, agents, or middlemen for other interested parties.

(6) The failure of a purchaser to comply with the sales contract terms and conditions may be cause for suspension and/or debarment, in addition to other administrative, contractual, civil, and criminal (including, but not limited to, 18 USC 1001) remedies which may be available to DoD.

(7) Aircraft parts will be made available in two ways:

(i) DRMS may, based on availability and demand, offer for sale under the Act whole unflivable aircraft, aircraft carcasses for cannibalization, or aircraft parts, utilizing substantially the same provisions outlined in paragraphs (a) through (d)(6) of this section for flyable aircraft.

(A) If USDA directs that DRMS set aside parts for sale under the Act, USDA must provide listings of parts required, by National Stock Number and Condition Code.

(B) Only qualified airtanker operators which fly the end-term aircraft will be allowed to purchase unflivable aircraft, aircraft carcasses, or aircraft parts applicable to that end-item.

(C) FMVs are not required for aircraft parts. DRMS must utilize historic prices received for similar parts in making sale determinations.

(ii) As an agency of the Federal government, USDA remains eligible to receive no-cost transfers of excess DoD aircraft parts under the FPMR.

§ 171.6 Reutilization and transfer procedures.

Prior to any sales effort, the Secretary of Defense shall, to the maximum extent practicable, consult with the Administrator of GSA, and with the heads of other Federal departments and agencies as appropriate, regarding reutilization and transfer requirements for aircraft and aircraft parts under this Act (see Chapter 4 of DoD 4160.21-M, paragraphs B 2 b (1) through B 2 b (3)).

(a) DoD reutilization:

(1) USDA shall notify Army, Navy, and/or Air Force, in writing, of their aircraft requirements as they arise, by aircraft type listed in Attachment 1 of Chapter 4 of DoD 4160.21-M.

(2) If a DoD requirement exists, the owning Military Service shall advise USDA, in writing, that it will be issuing the aircraft to satisfy the DoD reutilization requirement. If USDA disputes the validity of the DoD

requirement, it shall send a written notice of dispute to the owning Military Service and ADUSD(L/MDM) within thirty (30) days of its notice from the Military Service. ADUSD(L/MDM) shall then resolve the dispute, in writing. The aircraft may not be issued until the dispute has been resolved.

(b) Federal agency transfer:

(1) The Military Service must report aircraft which survive reutilization screening to GSA Region 9 on a Standard Form 120. GSA shall screen for Federal agency transfer requirements in accordance with the FPMR.

(2) If a Federal agency requirement exists, GSA shall advise USDA, in writing, that it will be issuing the aircraft to satisfy the Federal agency requirement. If USDA disputes the validity of the Federal requirement, it shall send a written notice of dispute to the owning Military Service and ADUSD(L/MDM) within thirty (30) days of its notice from the Military Service. ADUSD(L/MDM) shall then resolve the dispute, in writing. The aircraft cannot be issued until the dispute has been resolved.

(c) The Military Services shall:

(1) Report aircraft which survive transfer screening and are ready for sale to Headquarters, Defense Reutilization and Marketing Service, ATTN: DRMS-LMI, Federal Center, 74 Washington Avenue North, Battle Creek, Michigan 49017-3092. The Military Services must use a DD Form 1348-1A, DTID, for this purpose.

(2) Transfer excess DoD aircraft to the Aerospace Maintenance and Regeneration Center (AMARC), Davis-Monthan AFB, AZ, and place the aircraft in an "excess" storage category while aircraft are undergoing screening and/or wildfire suppression aircraft sale. Aircraft shall not be available nor offered to airtanker operators from the Military Service's airfield. The Military Service shall be responsible for the AMARC aircraft induction charges. The gaining customer will be liable for all AMARC withdrawal charges, to include any aircraft preparation required from AMARC. Sale of parts required for aircraft preparation is limited to those not required for the operational mission forces, and only if authorized by specific authority of the respective Military Service's weapon system program manager.

§ 171.7 Reporting requirements.

Not later than 31 March 2000, the Secretary of Defense must submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report setting forth the following:

(a) The number and type of aircraft sold under this authority, and the terms and conditions under which the aircraft were sold.

(b) The persons or entities to which the aircraft were sold.

(c) An accounting of the current use of the aircraft sold.

(d) USDA must submit to Headquarters, Defense Reutilization and Marketing Service, ATTN: DRMS-LMI, Federal Center, 74 Washington Avenue North, Battle Creek, Michigan, 49017-3092, not later than 1 February 2000, a report setting forth an accounting of the current disposition of all aircraft sold under the authority of the Act.

(e) DRMS must compile the report, based on sales contract files and (for the third report element) input from the USDA. The report must be provided to HQ DLA not later than 1 March 2000. HQ DLA shall forward the report to DoD not later than 15 March 2000.

§ 171.8 Expiration.

This part expires on 30 September 2000.

Dated: May 25, 1999

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense

[FR Doc. 99-13703 Filed 5-28-99; 8:45 am]

BILLING CODE 5000-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 169

[USCG-1999-5525]

RIN 2115-AF82

Mandatory Ship Reporting Systems

AGENCY: Coast Guard, DOT.

ACTION: Interim rule with request for comments.

SUMMARY: The Coast Guard is implementing two mandatory ship reporting systems in an effort to reduce the threat of ship strikes to endangered northern right whales (also known as the North Atlantic right whale). Based on a proposal by the United States, the International Maritime Organization adopted a resolution to establish these systems. The mandatory ship reporting systems are designed to inform mariners of the presence of whales in certain areas, so that mariners travelling in those areas can take actions to avoid collisions with the whales.

DATES: This interim rule is effective July 1, 1999. Comments and related material must reach the Docket Management

Facility on or before July 1, 1999. Comments sent to the Office of Management and Budget (OMB) on collection of information must reach OMB on or before July 1, 1999.

ADDRESSES: Please submit your comments and related material by one of the following methods to assist us in maintaining the integrity of the public docket:

(1) By mail to the Docket Management Facility (USCG-1999-5525), U.S. Department of Transportation, room PL-401, 400 Seventh Street SW., Washington, DC 20590-0001.

(2) By hand delivery to room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

(3) By fax to Docket Management Facility at 202-493-2251.

(4) Electronically through the Web Site for the Docket Management System at <http://dms.dot.gov>.

You must also mail comments on collection of information to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

The Docket Management Facility maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL-401 on the Plaza level of the Nassif Building at the same address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: For questions on this rule, call Mr. Edward LaRue, Office of Waterway Services (G-MWV), Coast Guard, telephone 202-267-0416. For questions on viewing or submitting material to the docket, call Dorothy Walker, Chief, Dockets, Department of Transportation, telephone 202-366-9329.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (USCG-1999-5525), indicate the specific section of this document to which each comment applies, and give

the reason for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one method so that duplicative filings of an individual comment will not be recorded in the public docket. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not plan to hold a public meeting. You may request one by submitting a request to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Regulatory Information

This rule is being published as an interim rule and is being made effective on July 1, 1999. This rule is not preceded by a notice of proposed rulemaking. The northern right whale is an extremely endangered species, under threat of extinction, and currently less than 300 of the whales exists. The U.S. and the international community are committed to the protection of this valuable resource. As discussed in the background section of this preamble, attention has focused on protecting the critical feeding and calving areas for these whales. The Coast Guard is committed to meet the International Maritime Organization (IMO) July 1, 1999 effective date for establishing mandatory reporting systems to protect critical habitat areas of the northern right whale. The IMO only took action on the issue in December 1998. The reporting system set out in this interim rule requires operators of affected vessels to report certain information on location and route. In return, mariners will receive information on whale location and avoidance. The interim rule does not mandate any specific navigation practices. It has taken a cooperative effort over the last five months (between the Coast Guard and the National Oceanic and Atmospheric Administration) to design the simple

and effective notification system provided in this interim rule. For these reasons, the Coast Guard finds good cause, under 5 U.S.C. 553(b)(B), that notice, and public procedure on the notice, before the effective date of this rule is impracticable and contrary to the public interest in protecting these whales. We still encourage public comments on this interim rule, and we may amend the rule as necessary to respond to comments received during the comment period.

Background and Purpose

In response to the endangered status of northern right whales (also known as the North Atlantic right whale), the United States and the IMO have taken steps to identify and implement measures to reduce the likelihood of collisions between ships and whales. These steps have addressed the problem on three fronts: mariner awareness, identification of whale movements, and efforts to promote recovery of the whale species.

In spite of these efforts, ship collisions with endangered right whales continue to occur. Mandatory ship reporting systems have the potential to protect these endangered whales through direct communication with ships and their operators in high risk areas of information to potentially reduce collisions.

Two systems are necessary because right whales frequent two distinct areas of the Atlantic coast of the United States. The northeastern reporting system is located mainly off the coast of Massachusetts and comprises the right whale's main feeding grounds. The southeastern reporting system is located off the coasts of Florida and Georgia and makes up the only known calving grounds for the right whale.

Right whales aggregate to feed and calve in five seasonal habitats along the eastern seaboard from Florida to Nova Scotia: (a) off the southeastern United States; (b) in the Great South Channel, Massachusetts; (c) in Massachusetts and Cape Cod Bays, Massachusetts; (d) in the lower Bay of Fundy, Canada; and (e) over the southern Nova Scotian shelf, Canada (notably those areas referred to as Browns Bank and Roseway Basin). Portions of these areas have been designated "critical habitats" for northern right whales or as a national marine sanctuary under U.S. domestic law and as conservation areas under Canadian law. Right whale sightings also occur outside these areas as the whales migrate between the southeastern and northeastern United States; however, there is not enough information about the migratory

corridor to establish a reporting system for these areas.

This rulemaking will create a new part 169 in Title 33 Code of Federal Regulations (CFR) entitled "Ship Reporting Systems." Subpart A will establish general requirements for all ship reporting systems. Subpart B will establish specific requirements for two mandatory ship reporting systems. The statutory authority for this project is 33 U.S.C. 1230(d), which is an amendment to Section 11 of the Ports and Waterways Safety Act (PWSA)(33 U.S.C. 1230(d)). Violators will be subject to the penalties authorized under the PWSA.

There is no statutory deadline for these mandatory ship reporting systems to be in place. However, when the systems were adopted by the International Maritime Organization (IMO), Maritime Safety Committee (MSC) at its 70th session December 7, 1998 (Resolution MSC.85(70)), it was agreed these systems would come into force no sooner than 6 months after adoption. The effective date agreed by IMO is July 1, 1999, and it was expected that the United States' actions to put a reporting program in place would be completed by that date.

The legal definitions of the boundaries for the two mandatory ship reporting systems are located in §§ 169.105 and 169.115.

Physical Characteristics, Behavior and Habitat

Description of the northern right whale. Northern right whales reach lengths of 45 to 55 feet (13.72 m to 16.76 m) and are black in color. The best field identification marks are a broad back with no dorsal fin, irregular bumpy white patches (callosities) on the head, and a distinctive two-column, V-shaped blow. They have paddle-like flippers nearly as wide as they are long, and a broad, deeply notched tail. Right whales are slow moving, with occasional speeds of up to 5 to 6 knots. They are often difficult to spot in rough water and at night due to their low profile and dark coloration.

Behavior. Right whale behavior undoubtedly plays a role in their vulnerability to ship collisions. For example, whales may appear in surface-active groups, groups of four to five whales engaging in frequent physical contact. Right whales also engage in skim feeding, in which they gather plankton by swimming slowly at the surface with their mouth open. During both feeding and surface active situations, whales are focused on the activity and appear to be unaware of approaching ships. Right whales also spend long periods resting at the

surface, a behavior called "logging." Mothers nursing young are frequently observed logging. Additionally, calves have limited diving capacities and spend most of their time at the surface.

Northeastern United States Habitats. Right whales occur seasonally in Massachusetts and Cape Cod Bays (peak season: January through April), the Great South Channel (peak season: April through June), and Jeffreys Ledge (peak season: July through mid-December). The first two areas are federally designated critical habitats for right whales. Stellwagen Bank (in Massachusetts Bay) and Jeffreys Ledge are located in the federally designated Gerry E. Studds Stellwagen Bank National Marine Sanctuary.

In late winter-early spring, right whales arrive in Cape Cod Bay. Springtime hydrographic conditions in Cape Cod Bay concentrate copepods and other zooplankton in dense patches on which the whales feed. The majority of right whales leave Cape Cod Bay by mid-May; however, whales remain throughout the summer in some years.

In late spring and early summer, right whales in the Great South Channel east of Cape Cod are found in the greatest numbers. Hydrographic changes and circulation patterns result in springtime blooms of zooplankton and copepods. Right whales feed both at the surface and at depths depending on where copepods are concentrated. In many years, right whales usually congregate in the highest density concentrations of the copepod on either the eastern or western side of the Great South Channel.

Right whales generally migrate from the Great South Channel region in June when copepod levels decrease and water temperatures increase. Many of the whales move north to the Bay of Fundy arriving in mid-June. The remainder are likely scattered throughout the Gulf of Maine or move onto the eastern side of the Nova Scotian shelf. By mid-summer, most of the whales are in feeding areas in the lower Bay of Fundy and on the Nova Scotian Shelf. These areas are used in early winter when the whales begin to migrate to winter habitats along the eastern coast, including the southern calving grounds.

Southeastern United States Habitats. The coastal waters of the southeastern United States, especially the shallow waters between Savannah, Georgia, and Cape Canaveral, Florida, are right whale calving grounds in the winter. Peak abundance and calving in this region occurs from December through March, but the winter calving season can begin as early as September and end as late as

mid-April. Mothers and newborn calves tend to stay in the southeast region until spring when they migrate northward.

Hydrographic and Meteorological Elements

Northeastern United States. The hydrographic and meteorological elements existing in the area create conditions favorable to production of right whale food sources and therefore contribute to their presence in the area. These elements can also adversely affect the ability of mariners to detect whales.

The mandatory ship reporting system covers an area of high ship traffic density and variable weather. The northern part of the northeastern reporting system encompasses the approaches to Boston Harbor (the largest seaport in New England), Massachusetts Bay, and Cape Cod Bay. The area is extensively marked with aids to navigation, and Loran C and differential Global Positioning System provide excellent coverage. The weather in the area is changeable, with frequent thick fog and strong and variable tides.

The southern part of the northeastern ship reporting system is located approximately 30 miles (55.58 km) southeast of Nantucket Island, Massachusetts, just east of the Nantucket Shoals Area to Be Avoided, and encompasses the western half of the Great South Channel, part of the Traffic Separation Scheme (TSS) in the approach to Boston, Massachusetts (Boston TSS), north to Race Point, Cape Cod, Massachusetts. The Great South Channel is bounded to the west by Cape Cod and the Nantucket shoals and to the east by the Georges Bank fishing grounds. Loran C and differential Global Positioning System provide excellent coverage. The Boston TSS is marked by buoys every 15 nautical miles (27.8 km). Fishing is heavy to the east of the TSS. Radar navigation is poor due to the low topography and distances from land. There are few calm days. During certain seasons, and in particular during peak whale season, the weather is usually foggy. Moreover, fog usually accompanies a calm sea state, while clear visibility often brings rough seas. Haze in the area also causes problems with visibility. Heavy storms and rain are common.

Southeastern United States. The hydrological and meteorological elements in the coastal waters off Georgia and northeastern Florida provide favorable conditions for right whales to calve. This area is their only known calving grounds. The Georgia coastline, between the Savannah River on the north and St. Mary's River on the south, is partly submerged at flood tide,

and is broken by tidal rivers and marshes covered with dense grass. Beaches are sandy and flat. The coastline of Florida is a long, low-profile barrier beach. Aids to navigation mark all critical dangers. Loran C and differential Global Positioning System provide excellent coverage. Radar navigation is difficult due to the low topography. The water is generally clear. Severe storms including hurricanes are common. Visibility is generally excellent, with light winds and attendant low sea state. In winter, early morning coastal fog is common, limiting visibility until the fog lifts with the rising sun. Winter storms are common and move quickly through the region.

Characteristics of Ship Traffic

Northeastern United States. There is quite a variety and volume of ship traffic operating in the northeastern mandatory ship reporting area. Fishing vessels, recreational vessels, and commercial traffic all frequent the area. Major shipping lanes exist in this area such as the Boston TSS, the Great South Channel, and the traffic lanes to transit north to the Bay of Fundy, Canada.

Southeastern United States. The ship traffic in the southeastern reporting system includes fishing vessels, military vessels, and commercial traffic. Customary shipping lanes cross the area and include those that enter several area ports.

Discussion of Interim Rule

This interim rule establishes a new part 169 entitled "Ship Reporting Systems." Subpart A establishes general requirements for all ship reporting systems. Subpart B establishes specific requirements for two mandatory ship reporting systems. These two mandatory reporting systems are identified as WHALESNORTH and WHALESSOUTH.

The reporting systems are off the eastern coast of the United States and cover the two main population centers for northern right whales. The coordinates chosen for the systems were derived through feedback from aerial surveys conducted in the areas. It was determined that the southeastern reporting system, WHALESSOUTH, need only operate during calving season as this is the only period when whales are found in the area. The northeastern reporting system, WHALESNORTH, is to operate year-round.

Ships are to report general information that includes ship's identification, time of report, course, speed, destination, estimated time of arrival, and intended track. Sensitive,

commercial information contained in these reports will be kept confidential.

Ships that report to the shore-based authority will receive a return message acknowledging their entry into the system. The return message will advise ship operators on watch of appropriate action that they can take to reduce the risk of collision with the right whales. The information conveyed would include warnings of the risk of hitting right whales, where to obtain seasonal right whale advisories, and where to consult for information about precautionary measures that mariners may take to reduce the risk of hitting right whales.

Regulatory Evaluation

This interim rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

We expect the economic impact of this interim rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Benefits

Generally, mandatory ship reporting systems would enhance mariners' awareness of the presence of northern right whales and provide them with pertinent information to avoid collisions. The increase of awareness may reduce the risk of ship strikes on the endangered northern right whale.

Private Industry Costs

The mariner's burden of reporting by radio is minimal. The reporting requirement uses the mariner's existing equipment and won't add to the expenses of the owner/operator. The average communications process (transmission/reception) is 5 minutes. It is only necessary to report when first entering the area. The cost of the issuing advisory information will be borne by the Coast Guard and the National Marine Fisheries Service (NMFS). Minimal ship maneuvers are expected in the avoidance of whales.

Government Costs

The Coast Guard and NMFS estimated the cost of this program to be approximately \$208,000 for Fiscal Year 1999 and \$176,000 annually for future years. The burden of this regulation will be split equally between the Coast

Guard and NMFS. Therefore, it is estimated that the cost to the Coast Guard would be \$104,000 for the first year and \$88,000 annually thereafter. Coast Guard personnel will not be utilized; a private contractor will be hired to operate and maintain facilities.

The Coast Guard would bear the burden associated with relaying non-INMARSAT-C reports through Coast Guard radio stations. Ships not equipped with INMARSAT-C would be required to report in standard format to the shore-based authority, either through narrow band direct printing (SITOR) or HF, MF, or VHF-voice communication systems.

This will add to the workload of staff currently assigned to the Coast Guard unit, but will not create an additional billet. Therefore, there is no additional expense.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. This rule does not require a general notice of proposed rulemaking and, therefore, is exempt from the requirements of the Regulatory Flexibility Act. Although this rule is exempt, the Coast Guard has reviewed it for potential economic impact on small entities.

The nature of the reports that are made is not such that a significant burden will be imposed on anyone. Reports will be accepted in many different forms to allow for the flexibility that many small entities require. It is anticipated very few small entities operate ships of 300 gross tons or greater. The Coast Guard has attempted to make compliance with this requirement as simple as possible.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under ADDRESSES. In your comment, explain why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Mr. Edward LaRue at the phone number listed under **FOR FURTHER INFORMATION CONTACT**.

Collection of Information

This rule provides for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520). As defined in 5 CFR 1320.3(c), "collection of information" comprises reporting, recordkeeping, monitoring, posting, labeling, and other, similar actions. The title and description of the information collections, a description of those who must collect the information, and an estimate of the total annual burden follow. The estimate covers the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection.

Title: Mandatory Ship Reporting System for the Northeastern and the Southeastern coasts of the United States.

Summary of the Collection of Information: The collection involves ships reporting by radio to a shore-based authority when entering the area covered by the reporting system. The ships will receive, in return, an advisory on protection of whales and sources of additional information.

Need for Information: The northern right whale is an endangered species. Mortality rates attributed to ship strikes account for up to 50 percent of recorded fatalities. The purpose of establishing mandatory ship reporting systems is to reduce the likelihood of collisions between ships and northern right whales in the areas established with critical habitat designation.

Proposed Use of Information: Reports will be used to record ship traffic in the reporting systems and provide information to minimize interaction with northern right whales.

Description of the Respondents: All ships of 300 gross tons or greater that transit the reporting systems are required to participate in the reporting systems, except government vessels exempted from reporting by regulation V/8-1(c) of the International Convention for the Safety of Life at Sea, 1974, as amended (SOLAS).

Number of Respondents: We estimate that this information collection would affect approximately 367 respondents annually.

Frequency of Response: The frequency of response is on occasion. Owners or operators are required to respond only when entering a mandatory reporting area.

Burden of Response: The burden of response is \$8,448 per year.

Number of transmissions: 4.400

Hour burden per transmission: .08 hours

Salary rate for affected personnel*: \$24 per hour

$4.400 \text{ transmissions per year} \times .08 \text{ hours per transmission} \times \$24 \text{ per hour} = \$8,448 \text{ per year.}$

* Salary rate as per COMDTINST 7310.1E Hourly Standard Rates for Personnel.

Estimated Total Annual Burden: The reporting burden is 352 hours to industry. Annual cost to the government for Fiscal year 1999 is \$208,000 and \$176,000 annually for future years.

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we have submitted a copy of this rule to the Office of Management and Budget (OMB) for its review of the collection of information.

We ask for public comment on the collection of information to help us determine how useful the information is; whether it can help us perform our functions better; whether it is readily available elsewhere; how accurate our estimate of the burden of collection is; how valid our methods for determining burden are; how we can improve the quality, usefulness, and clarity of the information; and how we can minimize the burden of collection.

If you submit comments on the collection of information, submit them both to OMB and to the Docket Management Facility where indicated under **ADDRESSES**, by the date under **DATES**.

On May 26, 1999, the Coast Guard received an emergency approval number from OMB on the information collection requirements. The OMB approval number is 2115-0640. Emergency OMB approval is effective for six months. The Coast Guard will submit the requirements to OMB for three-year approval.

Federalism

We have analyzed this interim rule under E.O. 12612 and have determined that this rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) and E.O. 12875, Enhancing the Intergovernmental Partnership, (58 FR 58093; October 28, 1993) govern the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This interim rule would not impose an unfunded mandate.

Taking of Private Property

This interim rule would not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This interim rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this interim rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

We considered the environmental impact of this interim rule and concluded that under figure 2-1, paragraph (34)(d) and (e), of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 169

Endangered and threatened species, Environmental protection, Mandatory ship reporting, Marine mammals, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Telecommunications, Vessels.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR chapter I by adding a new part 169 to subchapter P to read as follows:

PART 169—SHIP REPORTING SYSTEMS

Subpart A—General

Sec.

- 169.1 What is the purpose of this subpart?
 169.5 What terms are defined?
 169.10 What geographic coordinates are used?

Subpart B—Establishment of two mandatory ship reporting systems for the protection of northern right whales

- 169.100 What mandatory ship reporting systems are established by this subpart?
 169.102 Who is the shore-based authority?
 169.105 Where is the northeastern reporting system located?
 169.110 When is the northeastern reporting system in effect?
 169.115 Where is the southeastern reporting system located?
 169.120 When is the southeastern reporting system in effect?
 169.125 What classes of ships are required to make reports?
 169.130 When are ships required to make reports?
 169.135 How must the reports be made?
 169.140 What information must be included in the report?

Authority: Section 313, Pub. L. 105-883, 112 Stat. 3411, 3424, 33 U.S.C. 1230(d)

Subpart A—General

§ 169.1 What is the purpose of this subpart?

This subpart prescribes the requirements for mandatory ship reporting systems. Ship reporting systems are used to provide, gather, or exchange information through radio reports. The information is used to provide data for many purposes including, but not limited to: navigation safety, environmental protection, vessel traffic services, search and rescue, weather forecasting and prevention of marine pollution.

§ 169.5 What terms are defined?

(a) *Mandatory ship reporting system* means a ship reporting system that requires the participation of specified vessels or classes of vessels, and that is established by a Government or Governments after adoption of a proposed system by the International Maritime Organization (IMO) as complying with all requirements of regulation V/8-1 of the International Convention for the Safety of Life at Sea, 1974, as amended (SOLAS), except paragraph (e) thereof.

(b) *Shore-based authority* means the government appointed office or offices that will receive the reports made by ships entering each of the mandatory ship reporting systems. The office or offices will be responsible for the management and coordination of the

system, interaction with participating ships, and the safe and effective operation of the system. Such an authority may or may not be an authority in charge of a vessel traffic service.

§ 169.10 What geographic coordinates are used?

Geographic coordinates expressed in terms of latitude or longitude, or both, are not intended for plotting on maps or charts where the referenced horizontal datum is the North American Datum of 1983 (NAD 83), unless such geographic coordinates are expressly labeled NAD 83. Geographic coordinates without the NAD 83 reference may be plotted on maps or charts referenced to NAD 83 only after application of the appropriate corrections that are published on the particular map or chart being used.

Subpart B—Establishment of Two Mandatory Ship Reporting Systems for the Protection of Northern Right Whales

§ 169.100 What mandatory ship reporting systems are established by this subpart?

This subpart prescribes requirements for the establishment and maintenance of two mandatory ship reporting systems for the protection of the endangered northern right whale (also known as the North Atlantic right whale). These two systems are designated for certain areas of the East Coast of the United States. One system is located in the northeast and is identified as WHALESNORTH. The other system is located in the southeast and is identified as WHALESSOUTH.

Note: 50 CFR 222.11 prescribes requirements and procedures concerning northern right whale approach limitations and avoidance procedures.

§ 169.102 Who is the shore-based authority?

The U.S. Coast Guard is the shore-based authority for these mandatory ship reporting systems.

§ 169.105 Where is the northeastern reporting system located?

Geographical boundaries of the northeastern area include the waters of Cape Cod Bay, Massachusetts Bay, and the Great South Channel east and southeast of Massachusetts. The coordinates (NAD 83) of the area are as follows: from a point on Cape Ann, Massachusetts at 42°39'N, 70°37'W; then northeast to 42°45'N, 70°13'W; then southeast to 42°10'N, 68°31'W; then south to 41°00'N, 68°31'W; then west to 41°00'N, 69°17'W; then northeast to 42°05'N, 70°02'W, then west to 42°04'N, 70°10'W; and then along the

Massachusetts shoreline of Cape Cod Bay and Massachusetts Bay back to the point on Cape Ann at 42°39'N, 70°37'W.

§ 169.110 When is the northeastern reporting system in effect?

The mandatory ship reporting system in the northeastern United States operates year-round.

§ 169.115 Where is the southeastern reporting system located?

Geographical boundaries of the southeastern area include coastal waters within about 25 nautical miles (45 kilometer) along a 90-nautical mile (170-kilometer) stretch of the Atlantic seaboard in Florida and Georgia. The area coordinates (NAD 83) extends from the shoreline east to longitude 80°51.6'W with the southern and northern boundaries at latitude 30°00'N and 31°27'N, respectively.

§ 169.120 When is the southeastern reporting system in effect?

The mandatory ship reporting system in the southeastern United States operates during the period beginning on 15 November and ends on 16 April of each year.

§ 169.125 What classes of ships are required to make reports?

Each ship of 300 gross tons or greater must participate in the reporting systems, except government ships exempted from reporting by regulation V/8-1(c) of SOLAS. However, exempt ships are encouraged to participate in the reporting systems.

§ 169.130 When are ships required to make reports?

Participating ships must report to the shore-based authority upon entering the area covered by a reporting system. Additional reports are not necessary for movements made within a system or for ships exiting a system.

§ 169.135 How must the reports be made?

(a) A ship equipped with INMARSAT C must report in IMO standard format as provided in Table 169.140 in § 169.140.

(b) A ship not equipped with INMARSAT C must report to the Coast Guard using other means, listed below in order of precedence—

- (1) Narrow band direct printing (SITOR),
 - (2) HF voice communication, or
 - (3) MF or VHF voice communications.
- (c) SITOR or HF reports made directly to the Coast Guard's Communications Area Master Station Atlantic (CAMSLANT) in Chesapeake, VA, or MF or VHF reports made to Coast Guard

activities or groups, should only be made by ships not equipped with INMARSAT C. Ships in this category must provide all the required information to the Coast Guard watchstander.

§ 169.140 What information must be included in the report?

Each ship report made to the shore-based authority must follow the

standard reporting and format requirements listed in table 169.140.

BILLING CODE 4910-15-P

Table 169.140 Requirements for ship reports

Telegraphy	Function	Information required
Name of system	System identifier	Ship reporting system WHALESNORTH or WHALES SOUTH.
A	Ship	The name, call sign or ship station identity, IMO number, and flag of the vessel.
B	Date and time of event	A 6-digit group giving day of month (first two digits), hours and minutes (last four digits).
E	True course	A 3-digit group.
F	Speed in knots and tenths of knots	A 3-digit group.
H	Date, time and point of entry into system	Entry time expressed as in (B) and entry position expressed as- (1) a 4-digit group giving latitude in degrees and minutes suffixed with N(north) or S (south) and a 5-digit group giving longitude in degrees and minutes suffixed with E (east) or W (west); or (2) True bearing (first 3 digits) and distance (state distance) in nautical miles from a clearly identified landmark (state landmark).
I	Destination and expected time of arrival	Name of port and date time group expressed as in (B).
L	Route information	Intended track.

Dated: May 26, 1999.

T.H. Gilmour,

Captain, U.S. Coast Guard, Acting Assistant Commandant for Marine Safety and Environmental Protection.

(FR Doc. 99-11781, Filed 5-27-99, 1:03 pm)

BILLING CODE 4910-15-C

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NM-9-1-5214a; FRL-6350-1]

Approval and Promulgation of Implementation Plans: State of New Mexico and County of Bernalillo, New Mexico; State Boards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This action approves the State Implementation Plan (SIP) revisions for Board composition and conflict of interest disclosure requirements submitted both by the State of New Mexico and by Albuquerque/Bernalillo County, NM. The SIP revisions were submitted by the County and the State to satisfy the Federal mandate, found in section 128 of the Federal Clean Air Act (the Act), and in response to a SIP call letter to the Governor of New Mexico dated July 19, 1989, requiring a cure to identified SIP deficiencies concerning State Boards.

The revisions were submitted by the Governor to EPA on April 20 and July 16, 1990, for the State portion, and on November 16, 1990, for the Albuquerque/Bernalillo County portion. Supplemental information was

submitted for Albuquerque/Bernalillo County on December 18, 1990, October 21, 1991, and November 22, 1991. These revisions correct deficiencies for the New Mexico Environmental Improvement Board (NMEIB) and the Albuquerque/Bernalillo County Air Quality Board in order to comply with section 128 of the Act. The EPA approval of these New Mexico SIP revisions make the revisions federally enforceable. Subsequent correspondence in February and March 1993 addressed eligibility for "public interest" Board member positions.

DATES: This action is effective on August 2, 1999, without further notice, unless EPA receives adverse comment by July 1, 1999. If we receive such comment, we will publish a timely withdrawal in the **Federal Register**

informing the public that this rule will not take effect.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas Diggs, Chief, Air Planning Section (6PD-L), at the EPA Region 6 Office listed below. Reference Docket Number: File Code SIP 1-3-10: NM-90-05.

Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations.

Anyone wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

Environmental Protection Agency, Region 6, Air Planning Section (6PD-L), Multimedia Planning and Permitting Division, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733.

New Mexico Environment Department, Air Quality Bureau, 1190 St. Frances Drive, Room So. 2100, Santa Fe, New Mexico 87503.

Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center.

Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Dr. John Crocker, P.E., of the EPA Region 6 Air Planning Section at the above address, telephone (214) 665-7596.

SUPPLEMENTARY INFORMATION:

I. Background

The Act, section 128(a) titled—State Boards, requires each SIP to contain provisions which ensure that: (1) any board or body which approves permits or enforcement orders under the Act shall have at least a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to permits or enforcement orders under the Act, and (2) any potential conflicts of interest by members of such board or body, or the head of an executive agency with similar powers, be adequately disclosed.

The New Mexico Air Quality Control Act (section 74-2-4) authorizes Albuquerque/Bernalillo County to locally administer and enforce the State Air Quality Control Act by providing for a local air quality control program. Thus, State law views Albuquerque/Bernalillo County and the remainder of the State of New Mexico as distinct air quality control entities. Therefore, each entity is required to submit its own SIP revision in order to completely satisfy the requirements of section 128(a) of the Clean Air Act for the entire State of New Mexico.

A. SIP Call

On July 19, 1989, EPA issued a SIP call to the Governor of New Mexico providing formal notice of finding the SIP to be substantially inadequate. The SIP call required New Mexico (i.e., the NMEIB and the joint Albuquerque/Bernalillo County Air Quality Board) to take curative steps to comply with section 128 of the Act within a one-year time period or a corrective Federal Implementation Plan could be imposed to remedy the deficiencies.

Specifically, the SIP call required New Mexico to submit to EPA a schedule for the development and submittal of the necessary SIP revisions to correct the SIP deficiencies, including any necessary legislation needed to satisfy section 128 requirements (which would be adopted during the 1990 legislative session).

B. State Submittal

1. State Portion

In response to the July 1989 SIP call, on October 6, 1989, the State of New Mexico sent draft statutory changes of the New Mexico Air Quality Control Act (NMAQCA) to EPA for review and comment in anticipation of a 30-day legislative session to be held in early 1990. These proposed changes were intended to meet the section 128(a)(1) requirements of the Act for the NMEIB, by removing permitting and enforcement jurisdiction from the Board and placing it under the purview of the NMEID Director. This concept is acceptable under Federal law. The EPA provided comments on the draft statutory changes on December 4, 1989. In February 1990, the New Mexico State Legislature passed House Bill 404aa which contained language that satisfied the requirements of section 128(a)(1) of the Act. This bill was signed by the Governor and became immediately effective on February 28, 1990.

On April 20, 1990, the Governor submitted a SIP revision to EPA addressing the State portion of the State Board requirements. The submittal was a copy of enacted House Bill (H.B.) 404aa which amended the NMAQCA. This submittal was in response to the July 19, 1989, SIP call. House Bill 404aa adopted changes which removed permits and enforcement orders from the jurisdiction of the board. In addition, it required a majority of the board members to represent the public interest, and not derive any significant portion of their income from persons subject to (or who appear before the board on) issues related to the Act or the NMAQCA.

After a subsequent review of the SIP revision submittal, EPA determined on June 18, 1990, that the April 1990 State submittal was incomplete and requested a formal State submittal of the New Mexico Conflict of Interest Act and the NMEIB Code of Conduct. Similar information was also required for the City of Albuquerque/Bernalillo County portion of the State's submittal (e.g., ordinances, and any conflict of interest applicable provisions). On July 16, 1990, the Governor formally submitted the State's Conflict of Interest Act and the NMEIB Code of Conduct as an addendum to the April 1990 submittal to meet the section 128(a)(2) requirements of the Act. As indicated in EPA's letter dated August 9, 1990, this submittal completed the State's portion of the section 128(a) requirements. Under the State's Conflict of Interest Act, the members of the board and the NMEID Director are required to disclose any potential conflicts of interest. The NMEIB Code of Conduct prescribes standards of conduct for members of the NMEIB for potential conflict of interest situations. The Code is consistent with and intended to supplement the requirements of the State's Conflict of Interest Act, section 10-16-1 to 10-16-16 NMSA 1978. The EPA's earlier review of H.B. 404aa determined that it is acceptable under Federal law to remove permitting and enforcement jurisdiction from the NMEIB and to place it under the purview of the NMEID Director.

2. Albuquerque/Bernalillo County Portion

The initial Governor's SIP revision submittal for the City of Albuquerque/Bernalillo County occurred on November 16, 1990, via a letter to EPA and contains a SIP narrative and supporting attachments. It incorporates amendments to local ordinances correcting the criteria by which board members are appointed and also addresses Conflict of Interest. Supplemental information was submitted to EPA on December 18, 1990. The submittal included the following documents:

- a. SIP narrative statement regarding State Boards, including three (3) attachments as follows:
 1. City and County Metropolitan Environmental Health Advisory Board Ordinances as amended.
 2. City and County Air Quality Control Board Ordinances.
 3. The City Attorney's compilation of materials concerning City and County Conflict of Interest, and Code of Conduct.

b. Supporting documents which are necessary for processing and approving this SIP submittal (e.g., proof of September 9, 1990, legal notice of public hearing; and public hearing transcript of October 10, 1990).

This submittal was determined by EPA to be incomplete on June 21, 1991, pending a satisfactory resolution of prior EPA comments on the draft SIP supplement pertaining to State Boards by the City of Albuquerque's, Air Pollution Control Division. Specifically, these comments concerned the belief that critical legal flaws or deficiencies may exist, with respect to State Board requirements, in the Albuquerque/Bernalillo County addendum SIP revision. Supplemental information was submitted to EPA on October 21, 1991. A legal opinion by the Albuquerque City Attorney dated November 22, 1991, satisfactorily addressed EPA concerns as expressed in the June 21, 1991 letter. After a review of the addendum SIP revision, supplemental information and this legal opinion, EPA determined on December 17, 1991, that both the State portion and the City of Albuquerque/Bernalillo County portion of the Governor's submittal were complete.

II. Analysis of State Submission

A. General

The EPA has reviewed the Governor's submittals (both portions) and developed a Technical Support Document (TSD). The TSD concludes that the New Mexico Governor's SIP revisions (both portions) meet all of the requirements of section 128 of the Act. This TSD is available for inspection by interested parties during normal business hours at the EPA Region 6 Office.

B. Public Interest Membership

The EPA received written correspondence dated July 4, 1990, from an interested party concerning the eligibility for "public interest" Board member positions. As indicated in a reply letter dated November 27, 1990, EPA interprets the New Mexico Air Quality Control Act as follows: If a person appears before the Board on any matter(s), and that person is not paid for his or her appearance(s), or if he or she is paid, and that payment(s) is not a significant portion of his or her income, then that person can still qualify to be a public interest Board member. The EPA does not read the State statute to preclude persons from being eligible for public interest Board member positions if they have ever appeared before the Board on any matter(s). The disqualifying link is whether that

appearance(s) was a paid one and whether the payment, if any, was a significant portion of one's annual income. The State has agreed with this interpretation as well.

In subsequent correspondence with the New Mexico Environment Department (previously the NMEID) dated March 19, 1993, EPA further defined this issue by stating: Persons who are designated to either represent nonprofit environmental protection organizations or represent municipal and county governments, do not represent the public interest. The rationale behind this judgement is that each group could potentially pursue their own agenda and thus, would not represent the public interest. Specifically, professional public interest advocates (e.g., paid representatives) do not qualify for the "public interest" majority requirements. However, mere membership in the organizations would not be disqualifying.

In February and March 1993, the New Mexico Legislature considered H.B. 552 which proposed to increase the size of the Environmental Improvement Board from five to seven members. Specifically, the House Bill proposed that one new member would represent a non-profit environmental protection organization, and the other member would represent municipal (and county) governments. On March 2, 1993, EPA provided comments on this proposed bill and determined that it would throw the NMEIB public interest membership off balance, and if enacted, the language would be unapprovable under the Act, section 128. Likewise, the New Mexico Environment Department analyzed this bill and recommended not adopting the bill on the grounds that it would expose the NMEIB to membership composition problems. Subsequently, the New Mexico Legislature did not pass the flawed H.B. 552.

C. Procedural Background

The Act requires States to observe certain procedural requirements in developing implementation plans for submission to EPA. Section 110(a)(2) of the Act provides that each implementation plan submitted by a State must be adopted after reasonable notice and public hearing. See also section 110(l) of the Act. Also, EPA must determine whether a submittal is complete, and therefore warrants further EPA review and action (see section 110(k)(1) and 57 FR 13565). The EPA's completeness criteria for SIP submittals are set out at 40 CFR part 51, Appendix V (1991), as amended by 56 FR 42216 (August 26, 1991). The EPA attempts to make completeness determinations

within 60 days of receiving a submission. However, a submittal is deemed complete by operation of law if a completeness determination is not made by EPA six months after receipt of the submission.

Regarding the State portion of the SIP submittal (which includes New Mexico H.B. 404aa, and New Mexico Conflict of Interest Act) for State Boards, it is EPA's position that a public hearing is not required for State legislative statutes. The EPA views the State legislative process as fully satisfying the procedural requirements of 40 CFR 51.102 for adoption and submittal of SIP revisions.

After providing adequate 30 day public notice, Albuquerque/Bernalillo County held a public hearing on October 10, 1990, to entertain public comment on proposed revisions to its portion of the SIP submittal regarding State Boards. No adverse public comments were received at the public hearing. Following the public hearing and consideration of minor public comments, the SIP revision was adopted by the Albuquerque/Bernalillo County Air Quality Control Board on October 10, 1990. The Albuquerque/Bernalillo County portion of the SIP revision was then submitted by the Governor to EPA by cover letter dated November 16, 1990. Supplemental information was submitted on December 18, 1990, October 21, 1991, and November 22, 1991.

The SIP revision was reviewed by EPA to determine completeness shortly after its submittal, in accordance with the completeness criteria referenced above. A letter dated December 17, 1991, was forwarded to the Governor indicating the completeness of the submittal and the next steps to be taken in the review process.

III. Final Action

By this action, EPA is approving revisions to the New Mexico SIP regarding State Boards for both the State of New Mexico and for Albuquerque/Bernalillo County, NM. The SIP revisions were submitted by the State to satisfy the Federal mandate, found in section 128 of the Act concerning State Board composition and conflict of interest provisions. The EPA has reviewed these revisions to the New Mexico SIP and is approving them as submitted.

The EPA is publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the "Proposed Rules" section of today's *Federal Register* publication, we are publishing a

separate document that will serve as the proposal to approve the SIP revision. If adverse comments are filed, that action will be effective on August 2, 1999, without further notice unless we receive adverse comment by July 1, 1999.

If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** advising the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not initiate a second comment period on this action. Any parties interested in commenting on this action must do so at this time. If no such comments are received, the public is advised that that action will be effective August 2, 1999, and no further action will be taken on the proposed rule.

The EPA has reviewed this request for revision of the federally-approved SIP for conformance with the provisions of the 1990 Clean Air Act Amendments enacted on November 15, 1990. The EPA has determined that this action conforms with those requirements regardless of the fact that the submittal preceded the date of enactment. Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

IV. Administrative Requirements

A. Executive Order (E.O.) 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866, entitled "Regulatory Planning and Review."

B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, E.O. 12875 requires EPA to provide to the OMB a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected

officials and other representatives of State, local, and tribal governments "to provide meaningful and timely input in the development and regulatory processes concerning significant Federal regulations."

Today's rule does not require a consultation with State, local, or tribal governments. The rule does not impose an enforceable rule on any of these entities. Accordingly, the requirements of section 104 of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (61 FR 16045, April 23, 1996), applies to any rule that EPA determines (1) is "economically significant" as defined under E.O. 12866, and (2) the environmental health or safety risks addressed by the rule are: (a) disproportionate to or on children; (b) the regulatory action poses both criteria; the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Order has the potential to influence the regulation. This final rule is not subject to E.O. 13045 because it approves a State program.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, E.O. 13084 requires EPA to provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, E.O. 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide

meaningful and timely input in the development and regulatory processes on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 104 of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Act forbids EPA to base its actions concerning SIPs on such grounds. See *Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves preexisting requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller

General of the United States prior to publication of the rule in the **Federal Register**. A major rule can not take effect until 60 days after it is published in the **Federal Register**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2). This rule will be effective August 2, 1999.

H. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 2, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide,

Hydrocarbons, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: April 26, 1999.

Jerry Clifford,

Acting Regional Administrator, Region 6.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation of part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart GG—New Mexico

2. In section 52.1620(e), the table is amended by adding section 74-1-4 at the beginning of the table, by revising section 74-2-4, and by adding new sections to the table after section 74-2-17.

§ 52.1620 Identification of plan.

* * * * *
(e) * * *

EPA APPROVED NEW MEXICO STATUTES IN THE CURRENT NEW MEXICO SIP

State citation	Title/subject	State approval/effective date	EPA approval date	Comments
NMSA 1978—New Mexico Statutes in the New Mexico SIP				
74-1-4	Environmental Improvement Board—Creation—Organization.	04/20/90	June 1, 1999.	
74-2-4	Municipal or County Air Quality Control Board.	04/20/90	June 1, 1999.	
Article 16, Sections 10-16-1 through 10-16-16.	New Mexico Conflict of Interest Act	07/16/90	June 1, 1999.	
Article 16, Supplemental	New Mexico Environmental Improvement Board Code of Conduct.	07/16/90	June 1, 1999.	

EPA Approved City of Albuquerque and Bernalillo County Ordinances for State Board Composition and Conflict of Interest Provisions

City of Albuquerque, Chapter 6, Article XVII Sections 6-17-1 to 6-17-3.	Metropolitan Environmental Health Advisory Board.	11/16/90	June 1, 1999.	
Bernalillo County Commission Ordinance 302.	Metropolitan Environmental Health Advisory Board.	08/05/74	June 1, 1999.	
Bernalillo County Commission Ordinance 90-19.	Metropolitan Environmental Health Advisory Board.	08/21/90	June 1, 1999 Amended Ordinance 302.
City of Albuquerque, Chapter 6, Article XVI Sections 6-16-1 to 6-16-15.	Joint Air Quality Control Board Ordinance.	08/01/89	June 1, 1999.	
Bernalillo County Commission Ordinance 88-45	Joint Air Quality Control Board Ordinance.	12/27/88	June 1, 1999 Amended Ordinance 84-44.
City of Albuquerque Chapter 1, Article XII Sections 1-12-1 to 1-12-3	Public Boards, Commissions and Committees.	07/01/87	June 1, 1999.	

EPA APPROVED NEW MEXICO STATUTES IN THE CURRENT NEW MEXICO SIP—Continued

State citation	Title/subject	State approval/effective date	EPA approval date	Comments
City of Albuquerque Chapter 2 Article III Sections 2-3-1 to 2-3-13	Conflict of Interest	07/01/85	June 1, 1999	
City of Albuquerque Charter Article XII	Code of Ethics	04/01/90	June 1, 1999	
Bernalillo County Commission Ordinance 85-3	Code of Ethics	02/05/85	June 1, 1999	
City of Albuquerque Code of Conduct	City Code of Conduct	02/09/90	June 1, 1999	

[FR Doc. 99-13379 Filed 5-28-99; 8:41 a.m.]

BILLING CODE 6560-50-U

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 82**

[FRL-6351-6]

RIN 2060-AI24

Protection of Stratospheric Ozone: Incorporation of Montreal Protocol Adjustment for a 1999 Interim Reduction in Class I, Group VI Controlled Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: With this action, EPA is revising the accelerated phaseout regulations that govern the production, import, export, transformation and destruction of substances that deplete the ozone layer under authority of Title VI of the Clean Air Act Amendments of 1990 (CAA or the Act). This amendment reflects changes in U.S. obligations under the Montreal Protocol on Substances that Deplete the Ozone Layer (Protocol) due to recent adjustments by signatory countries to this international agreement. Specifically, this amendment incorporates the Protocol's 25 percent interim reduction in the production and consumption of class I, Group VI controlled substances (methyl bromide) for the 1999 control period and subsequent control periods.

In taking this action, EPA recognizes the recent intent of Congress in changes to the Clean Air Act that direct EPA to conform the U.S. phasedown schedule of methyl bromide to the Montreal Protocol's schedule for industrialized nations, including required interim reductions and specific exemptions. EPA intends to follow this rule with other actions to complete the process of conforming the U.S. methyl bromide

phaseout schedule and specific exemptions with obligations under the Montreal Protocol and with the recent changes to the Clean Air Act. Through subsequent actions to this amendment, EPA plans to reflect, through notice and comment rulemaking, the additional steps in the phaseout schedule for the production and consumption of methyl bromide, as follows: beginning January 1, 2001, a 50 percent reduction in baseline levels; beginning January 1, 2003, a 70 percent reduction in baseline levels; beginning January 1, 2005, a complete phaseout of the production and consumption with emergency and critical use exemptions permitted under the Montreal Protocol. Even sooner, EPA plans to publish a proposal that will describe a process for exempting quantities of methyl bromide used in the U.S. for quarantine and preshipment from the reduction steps in the phaseout schedule.

EFFECTIVE DATE: This rule is effective on July 1, 1999.

ADDRESSES: Materials supporting this rulemaking and comments are contained in Public Docket No. A-92-13. U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460. The docket is located in Room M-1500, Waterside Mall (Ground Floor). Dockets may be inspected from 8 a.m. until 12 noon, and from 1:30 p.m. until 3 p.m., Monday through Friday. EPA may charge a reasonable fee for copying docket materials.

FOR FURTHER INFORMATION CONTACT: The Stratospheric Ozone Protection Hotline at 1-800-269-1996 between the hours of 10 a.m. and 4 p.m. Eastern Standard Time, or Tom Land, U.S. Environmental Protection Agency, Stratospheric Protection Division (6205J), 401 M Street, S.W., Washington, D.C. 20460, (202) 564-9185.

SUPPLEMENTARY INFORMATION:**Table of Contents**

- I. Legislative and Regulatory Background of Phasing Out Production and Consumption of Controlled Substances that Deplete the Ozone Layer
- II. Context for Today's Final Rule
- III. Amendments to § 82.7—Grant and Phased Reduction of Baseline Production and Consumption Allowances for Class I Controlled Substances
- IV. Next Steps to Conform the U.S. Methyl Bromide Phaseout Schedule and Exemptions to the Montreal Protocol and the Recently Amended Clean Air Act
- V. Response to Comments on the Notice of Proposed Rulemaking Published on February 25, 1999
- VI. Summary of Supporting Analysis

I. Legislative and Regulatory Background of Phasing Out Production and Consumption of Controlled Substances that Deplete the Ozone Layer

The current regulatory requirements of the Stratospheric Ozone Protection Program that limit production and consumption of ozone-depleting substances were promulgated by the Environmental Protection Agency (EPA or the Agency) in the **Federal Register** on December 20, 1994 (59 FR 65478), May 10, 1995 (60 FR 24970), August 4, 1998 (63 FR 41625) and October 5, 1998 (63 FR 53290). The regulatory program was originally published in the **Federal Register** on August 12, 1988 (53 FR 30566), in response to the 1987 signing of the Montreal Protocol on Substances that Deplete the Ozone Layer (Protocol).¹ The U.S. was one of the original signatories to the 1987 Montreal Protocol and the U.S. ratified the Protocol on April 4, 1988. Congress then enacted, and President Bush signed into law, the Clean Air Act Amendments of

¹ Several revisions to the original 1988 rule were made on the following dates: February 9, 1989 (54 FR 6376), April 3, 1989 (54 FR 13502), July 5, 1989 (54 FR 28062), July 12, 1989 (54 FR 29337), February 13, 1990 (55 FR 50051), June 15, 1990 (55 FR 24490) and June 22, 1990 (55 FR 25812). July 30, 1992 (57 FR 33754), and December 10, 1993 (58 FR 65018).

1990 (CAA or the Act) that included Title VI on Stratospheric Ozone Protection.

The requirements contained in the final rules published in the **Federal Register** on December 20, 1994 and May 10, 1995 establish an Allowance Program (the Program). The Program and its history are described in the notice of proposed rulemaking (NPRM) published in the **Federal Register** on November 10, 1994 (59 FR 56276). The control and the phaseout of production and consumption of class I ozone-depleting substances as required under the Protocol and CAA are accomplished through the Allowance Program. In this action, EPA is also recognizing the expressed intent of Congress in recent changes to the Clean Air Act, which direct EPA to conform the U.S. methyl bromide phased-out schedule to the Montreal Protocol's schedule for industrialized nations, including required interim reductions.

In developing the Allowance Program, EPA collected information on the amounts of ozone-depleting substances produced, imported, exported, transformed and destroyed within the United States for specific baseline years. This information was used to establish the U.S. production and consumption ceilings for these substances. The data were also used to assign company-specific production and import rights to companies that were in most cases producing or importing during the specific year of data collection. These production or import rights are called "allowances." Due to the complete phaseout of many of the ozone-depleting chemicals, the quantities of production allowances and consumption allowances granted to companies for those chemicals were gradually reduced and eventually eliminated. Production allowances and consumption allowances continue to exist for only one specific class I controlled ozone-depleting substance—methyl bromide. All other production or consumption of class I controlled substances is prohibited under the Protocol and the CAA, but for a few narrow exemptions.

In the context of the regulatory program, the use of the term consumption may be misleading. Consumption does not mean the "use" of a controlled substance, but rather is defined as production plus imports minus exports of controlled substances (Article 1 of the Protocol and section 601 of the CAA). Unless they are subject to use restrictions, class I controlled substances can generally continue to be "used" after their "production and consumption" phaseout dates.

The specific names and chemical formulas for the controlled ozone-depleting substances in the Groups of class I controlled substances are in appendix A and appendix F in subpart A of 40 CFR part 82. The specific names and chemical formulas for the class II controlled ozone-depleting substances are in appendix B and appendix F in subpart A.

Although the regulations phased out the production and consumption of class I, Group II substances (halons) on January 1, 1994, and all other class I controlled substances (except methyl bromide) on January 1, 1996, a very limited number of exemptions exist, consistent with U.S. obligations under the Protocol. The regulations allow for the manufacture of phased-out class I controlled substances, provided the substances are either transformed, or destroyed. (40 CFR 82.4(b)). They also allow limited manufacture if the substances are (1) exported to countries listed under Article 5 of the Protocol, (2) produced for essential uses as authorized by the Protocol and the regulations, or (3) produced with destruction or transformation credits. (40 CFR 82.4(b)).

The regulations allow import of phased-out class I controlled substances provided the substances are either transformed or destroyed. (40 CFR 82.4(d)) Limited exceptions to the ban on the import of phased-out class I controlled substances also exist if the substances are: (1) Previously used, (2) imported for essential uses as authorized by the Protocol and the regulations, (3) imported with destruction or transformation credits or (4) a transshipment or a heel (a small amount of controlled substance remaining in a container after discharge). (40 CFR 82.4(d), 82.13(g)(2)).

II. Context for Today's Final Rule

Today's action amends existing EPA regulations published under authority of Title VI of the CAA that govern the production and consumption of ozone-depleting substances. EPA is establishing a 25 percent reduction in the 1991 baseline levels of production allowances and consumption allowances for methyl bromide (class I, Group VI controlled substance) for the 1999 and 2000 control periods. Today's amendment is designed to ensure the U.S. meets its obligations under the Protocol and the CAA, specifically the first interim reduction reflecting amendments to Title VI as created by section 764 of the 1999 Omnibus Consolidated and Emergency Supplemental Appropriations Act (Public Law 105-277). Section 764(a) of

the Omnibus Act requires EPA to promulgate rules to bring the schedule for phaseout of methyl bromide into accordance with the Montreal Protocol as in effect at the time of enactment.

EPA intends to follow this rule with other actions to complete the process of conforming the U.S. phaseout schedule for methyl bromide with obligations under the Montreal Protocol and with the recent changes to the Clean Air Act. Through subsequent actions to today's amendment, EPA plans to reflect, through notice and comment rulemaking, the additional steps in the phaseout schedule for the production and consumption of methyl bromide, as follows: beginning January 1, 2001, a 50 percent reduction in baseline levels; beginning January 1, 2003, a 70 percent reduction in baseline levels; beginning January 1, 2005, a complete phaseout of production and consumption with processes for special exemptions permitted under the Montreal Protocol. In the coming months, EPA plans to publish a proposal that will define the process for exempting quantities of methyl bromide used in the U.S. for quarantine and preshipment from the phaseout schedule. These subsequent actions are described in more detail in part IV of today's rulemaking.

III. Amendments to § 82.7—Grant and Phased Reduction of Baseline Production and Consumption Allowances for Class I Controlled Substances

EPA is establishing a 25 percent reduction in the baseline level¹ of production allowances and consumption allowances for methyl bromide (class I, Group VI controlled substance) for the 1999 and 2000 control periods. At the 1997 meeting of the Montreal Protocol, the Parties agreed to adjust the phaseout schedule of methyl bromide for industrialized countries. The first Protocol adjustment to the methyl bromide phaseout schedule for industrialized countries is a 25 percent reduction of production and consumption from 1991 baseline levels beginning in the 1999 calendar year.

The Parties to the Protocol established a freeze in the level of methyl bromide production and consumption for industrialized countries at the 1992 Meeting in Copenhagen. Each industrialized country's 1991 production and consumption of methyl bromide was used as the baseline for establishing the freeze. EPA published a final rule in the **Federal Register** on December 10, 1993, listing methyl bromide as a class I controlled substance and freezing production and consumption at 1991 levels. (58 FR

65018, 65028–65044, 65074). In the rule published on December 30, 1993, in the **Federal Register**, EPA established for specific companies baseline production allowances and consumption allowances for methyl bromide. The companies receiving baseline production and consumption allowances in accordance with their 1991 level of production, imports and exports for class I, Group VI controlled substances (methyl bromide) are listed at 40 CFR 82.5 and 82.6 (58 FR 69238). Section 82.7 of the rule published in the **Federal Register** on May 10, 1995 (60 FR 24970) sets forth the percentage of baseline allowances for methyl bromide (class I, Group VI controlled substances) granted to companies in each control period (each calendar year). Currently, the percentage of baseline methyl bromide allowances granted for each control period until 2001 is 100 percent. In accordance with the Protocol's adjustment to the methyl bromide phaseout schedule, EPA is granting 75 percent of baseline production allowances and 75 percent of baseline consumption allowances to the companies listed in §§ 82.5 and 82.6 for class I, Group VI substances for 1999 and 2000.

In preparing the final rule published in the **Federal Register** on December 30, 1993, that established a phaseout date for methyl bromide in 2001, EPA conducted a Cost Effectiveness Analysis, dated September 30, 1993, under the title, "Part 2. The Cost and Cost-Effectiveness of the Proposed Phaseout of Methyl Bromide." For today's 25 percent interim reduction in methyl bromide production and consumption, EPA conducted an addendum to the 1993 analysis. The results of the additional analysis indicate that, if the U.S. had to reduce methyl bromide production and consumption from 100 percent to 75 percent of the baseline in 1999, the estimated cost increase would be less than 2 percent of the original cost estimate for the 2001 phaseout. The original (1993) annualized cost estimate for the 2001 phaseout, adjusted to 1998 dollars, is \$159 million. The incremental annualized costs for today's reduction beginning in 1999 from 100 percent of the baseline to 75 percent would be approximately \$3 million. However, from 1994 through 1997, the actual consumption of methyl bromide in the U.S. has been approximately 10 to 15 percent below the 1991 baseline as reported to EPA's Allowance Tracking System. The United States must therefore reduce methyl bromide consumption in 1999 by only 10 to 15

percent in relation to the 1991 baseline to achieve the Protocol's first interim reduction from 100 percent to 75 percent. According to the additional analysis, the estimated cost increase of implementing a 10 to 15 percent reduction in methyl bromide production and consumption in 1999 would be less than 1 percent of the original cost estimate conducted in 1993, or an annualized incremental cost of less than \$2 million. Because this new analysis is an addendum to the 1993 analysis and uses the same algorithms it permits easy comparisons with the earlier cost estimates. In undertaking the steps discussed below, EPA, in consultation with the U.S. Department of Agriculture and other Federal agencies, intends to conduct further analysis.

IV. Next Steps To Conform the U.S. Methyl Bromide Phaseout Schedule and Exemptions to Those of the Montreal Protocol and the Recently Amended Clean Air Act

In addition to today's action, EPA intends to publish two proposals to conform the United States' methyl bromide program to obligations under the Montreal Protocol and recent changes to the Clean Air Act. First, EPA intends to propose a process that would exempt quantities of methyl bromide used for quarantine and preshipment in the U.S. from the phaseout schedule and make adjustments to the existing baseline. Second, EPA intends to propose additional phaseout steps for methyl bromide, and establish additional exemptions in accordance with the Protocol, as follows:

- Beginning January 1, 2001, a 50 percent reduction in baseline levels;
- Beginning January 1, 2003, a 70 percent reduction in baseline levels;
- Beginning January 1, 2005, a complete phaseout of production and consumption;
- Establish a process for emergency use exemptions; and
- Establish a process for critical use exemptions as permitted under the Montreal Protocol.

The discussion below outlines EPA's plans for subsequent rulemaking and provides a vision of the Agency's future actions to conform the U.S. methyl bromide regulatory program with the Montreal Protocol and recent changes to Title VI of the Clean Air Act. The plans described below provide general information. EPA will request formal comments on more detailed proposals in the very near future.

EPA intends to publish quickly a proposal to exempt all quantities of methyl bromide used for quarantine and

preshipment in the United States. EPA anticipates proposing a flexible process that is responsive to market demands for methyl bromide for quarantine and preshipment. In preparing the notice of proposed rulemaking on quarantine and preshipment, EPA will address the new section 604(d)(5) of Title VI of the CAA on Sanitation and Food Protection added by section 764(b) of the 1999 Omnibus Consolidated and Emergency Supplemental Appropriations Act (Public Law 105-277). In this same regulatory action, EPA intends to correct the existing methyl bromide baseline of production allowances and consumption allowances because it contains a fixed quantity associated with quarantine and preshipment. When EPA included methyl bromide in the list of class I controlled ozone depleting substances in the final rule published in the **Federal Register** on December 10, 1993 (58 FR 65018), and established the baseline for production and consumption allowances, the quantities of quarantine and preshipment were included in the baseline.

The second step EPA intends to take in conforming the U.S. methyl bromide program to obligations under the Montreal Protocol and recent changes to the Clean Air Act would be a proposal to set the remaining reduction steps and final phaseout, to establish the process for emergency use exemptions and to create the process for critical use exemptions. Each of these parts of a proposal would be designed to ensure the U.S. meets its obligations under the Montreal Protocol consistent with statutory requirements in the Clean Air Act. The remaining phaseout steps for the production and consumption of methyl bromide are a 50 percent reduction in baseline levels beginning January 1, 2001; a 70 percent reduction in baseline levels beginning January 1, 2003; and a complete phaseout of production and consumption beginning January 1, 2005, with emergency use exemptions and critical use exemptions as permitted under the Montreal Protocol. EPA, in consultation with the U.S. Department of Agriculture, intends to conduct further analysis to support the proposal of these further reduction steps, final phaseout, and exemptions.

V. Response to Comments on the Notice of Proposed Rulemaking Published on February 25, 1999

EPA received four comments on the notice of proposed rulemaking published in the **Federal Register** on February 25, 1999 (64 FR 9290). None of the four comments were related to the proposal to establish a 25 percent

reduction in baseline production allowances and consumption allowances for methyl bromide (class I, Group VI controlled substance) for the 1999 and 2000 control periods. In general, the comments pertain to the discussion of future EPA actions to conform regulations with the Montreal Protocol and the recent changes to the CAA in part IV above. Although the comments are not directly related to today's action, EPA wishes to respond to them.

Two comments state that in discussing a complete phaseout of methyl bromide EPA should clarify all of the limited circumstances under which exemptions exist. In fact, both today's rule and the February 25, 1999 proposed rule list the limited exemptions for manufacturing a class I controlled substance beyond the phaseout (in Part I). Methyl bromide is a class I controlled substance and these limited exemptions apply to methyl bromide. EPA regulations at 40 CFR 82.1—82.13 allow for the manufacture of a class I controlled substance beyond the phase out date if the substance is either transformed or destroyed. In addition, the regulations allow limited manufacture of a class I controlled substance, if the substance is: (1) exported to countries classified under Article 5 of the Protocol, (2) produced for essential uses as authorized by the Protocol and the regulations, or (3) produced with destruction or transformation credits.

Another comment requests EPA to consider the fumigation of a specific commodity for a critical use exemption beyond the phaseout. As explained in Part IV above, EPA will be proposing a process for determining critical use exemptions beyond the phaseout for methyl bromide in a future rulemaking. EPA encourages the participation of interested stakeholders in the future development of the critical use exemption process and the notice and comment rulemaking.

The final comment asks EPA to establish quickly an exemption for quantities of methyl bromide used for quarantine and preshipment in the United States. EPA is currently developing the proposed rule. EPA expects to publish a proposed rule to establish exemptions for quantities of methyl bromide used in the U.S. for quarantine and preshipment later this year.

IV. Summary of Supporting Analysis

A. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public

Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. If a written statement is required under section 202, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule, unless the Agency explains why this alternative is not selected or the selection of this alternative is inconsistent with law.

Section 203 of the UMRA requires the Agency to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule. Section 204 of the UMRA requires the Agency to develop a process to allow elected state, local, and tribal government officials to provide input in the development of any proposal containing a significant Federal intergovernmental mandate.

The provisions in today's rule fulfill the obligations of the United States under the international treaty. The Montreal Protocol on Substances that Deplete the Ozone Layer, as well as the recent amendments to Title VI of the Clean Air Act. Analysis of today's rule estimates an incremental annualized cost of \$1 to 3 million for the 25 percent reduction as compared to the 1993 original analysis for establishing the 2001 phaseout. However, further analysis shows that just the 25 percent reduction in today's rule for 1999 and 2000 would have an estimated annualized cost of \$71 million without other additional reduction steps and without a complete phaseout of the production and consumption of methyl bromide. Therefore, it is unlikely that today's rule will result in expenditures of \$100 million or more in any one year for State, local and tribal governments, or for the private sector in the aggregate. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA. EPA has also determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments; therefore, EPA is not required to develop a plan with regard to small governments under section 203. Finally,

because this rule does not contain a significant intergovernmental mandate, the Agency is not required to develop a process to obtain input from elected state, local, and tribal officials under section 204.

B. Regulatory Flexibility

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. EPA has also determined that this rule will not have a significant economic impact on a substantial number of small entities.

The Agency performed an initial screening analysis and determined that this regulation does not have a significant economic impact on a substantial number of small entities. EPA characterized the regulated community by identifying the SIC codes of the companies affected by this rule. The Agency determined that the members of the regulated community affected by today's rule are not small businesses under SBA definitions. Small governments and small not-for-profit organizations are not subject to the provisions of today's rule. The provisions in today's action regulate large, multinational corporations that either produce, import, or export class I, group VI ozone-depleting substances.

C. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether this regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines a "significant" regulatory action as one that is likely to result in a rule that may:

- (1) have an annual effect on the economy of \$100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
- (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Analysis of today's rule estimates an incremental annualized cost of \$1 to \$3 million for the 25 percent reduction as compared to the 1993 original analysis for establishing the 2001 phaseout. However, further analysis shows that just the 25 percent reduction in today's

rule for 1999 and 2000 would have an estimated annualized cost of \$71 million without additional reduction steps and without a complete phaseout of the production and consumption of methyl bromide.

It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

D. Applicability of E.O. 13045—Children's Health Protection

Executive Order 13045: "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Order has the potential to influence the regulation. This rule is not subject to E.O. 13045 because it implements a Congressional directive to phase out production and consumption of methyl bromide in accordance with the schedule under the Montreal Protocol.

E. Paperwork Reduction Act

This action does not add any information collection requirements or increase burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. The Office of Management and Budget (OMB) previously approved the information collection requirements contained in the final rule promulgated on May 10, 1995, and assigned OMB control number 2060-0170 (EPA ICR No. 1432.16).

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the

existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

F. Executive Order 12875: Enhancing the Intergovernmental Partnership

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

G. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with

those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies or matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. The rule does not impose any enforceable duties on communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

H. The National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. The rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

I. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other

required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective July 1, 1999.

List of Subjects in 40 CFR Part 82

Environmental protection,
Administrative practice and procedure,

Air pollution control, Chemicals,
Exports, Imports, Ozone layer.

Dated: May 25, 1999

Carol M. Browner,

Administrator

Subpart 82—Protection of Stratospheric Ozone

1. The authority citation for subpart 82 continues to read as follows:

Authority: 42 U.S.C. 7414 7601, 7671-7671q.

Subpart A—Production and Consumption Controls

2. Section 82.7 is revised to read as follows:

§ 82.7 Grant and phase reduction of baseline production and consumption allowances for class I controlled substances.

For each control period specified in the following table, each person is granted the specified percentage of the baseline production and consumption allowances apportioned to him under §§ 82.5 and 82.6 of this subpart.

Control period	Class I substances in groups I and III (percent)	Class I substances in group II (percent)	Class I substances in group IV (percent)	Class I substances in group V (percent)	Class I substances in group VI (percent)	Class I substances in group VII (percent)
1994	25	0	50	50	100	100
1995	25	0	15	30	100	100
1996	0	0	0	0	100	0
1997	0	0	0	0	100	0
1998	0	0	0	0	100	0
1999	0	0	0	0	75	0
2000	0	0	0	0	75	0

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Proposed Rules

Federal Register

Volume 64, No. 194

Tuesday, June 1, 1999

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NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

RIN 3150-AG27

Formal and Informal Adjudicatory Hearing Procedures; Clarification of Eligibility to Participate

AGENCY: Nuclear Regulatory Commission

ACTION: Proposed rule

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations governing participation in adjudicatory proceedings conducted under its Rules of Practice to clarify that Federally-recognized Indian tribal governments are entitled to participate in these proceedings on the same basis as other governmental units.

DATES: Comments on the proposed rule must be received on or before July 1, 1999.

ADDRESSES: Mail any comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Rulemakings and Adjudications Staff.

Hand deliver comments to 11555 Rockville Pike, Rockville, Maryland, 20852, between 7:30 am and 4:15 Eastern time on Federal workdays.

You may also provide comments via the NRC's interactive rulemaking website through the NRC home page (<http://www.nrc.gov>). This site provides the availability to upload comments as files (any format) if your web browser supports that function. For information about the NRC's interactive rulemaking website, contact Ms. Carol Gallagher, (301) 415-5905; email CAG@nrc.gov.

Copies of any comments received may be examined at the NRC Public Document Room, 2120 L Street NW, (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Charles E. Mullins, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-

0001; telephone (301) 415-5905; email CAG@nrc.gov.

SUPPLEMENTARY INFORMATION: For additional information, see the Final Rule published in the Rules and Regulations section of the Federal Register.

Because the NRC considers this action noncontroversial and routine, the NRC is publishing the rule in final form without seeking public comments on the amendments in a proposed rule. This action will become effective on August 2, 1999. However, if the NRC receives significant adverse comments by July 1, 1999, the NRC will publish a document that withdraws the direct final rule pending review of the comments, and will address those comments in a subsequent final rule. The NRC will not initiate a second comment period on this action.

List of Subjects in 10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalties, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR Part 2.

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

1. The authority citation for Part 2 continues to read as follows:

Authority: secs. 161, 181, 68 Stat. 948, 953, as amended (42 U.S.C. 2201, 2231); sec. 191, as amended, Pub. L. 87-615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552.

Section 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 105, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 114 (f); Pub. L. 97-425, 96 Stat. 2213, as amended (42 U.S.C. 10143 (f)); sec. 102, Pub. L. 91-190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Section 2.102, 2.103, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 183, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Section 2.105 also issued under Pub. L. 97-415, 96 Stat. 2073

(42 U.S.C. 2239). Section 2.106, 2.107, 2.108, 2.109, 2.110, 2.111, 2.112, 2.113, 2.114, 2.115, 2.116, 2.117, 2.118, 2.119, 2.120, 2.121, 2.122, 2.123, 2.124, 2.125, 2.126, 2.127, 2.128, 2.129, 2.130, 2.131, 2.132, 2.133, 2.134, 2.135, 2.136, 2.137, 2.138, 2.139, 2.140, 2.141, 2.142, 2.143, 2.144, 2.145, 2.146, 2.147, 2.148, 2.149, 2.150, 2.151, 2.152, 2.153, 2.154, 2.155, 2.156, 2.157, 2.158, 2.159, 2.160, 2.161, 2.162, 2.163, 2.164, 2.165, 2.166, 2.167, 2.168, 2.169, 2.170, 2.171, 2.172, 2.173, 2.174, 2.175, 2.176, 2.177, 2.178, 2.179, 2.180, 2.181, 2.182, 2.183, 2.184, 2.185, 2.186, 2.187, 2.188, 2.189, 2.190, 2.191, 2.192, 2.193, 2.194, 2.195, 2.196, 2.197, 2.198, 2.199, 2.200, 2.201, 2.202, 2.203, 2.204, 2.205, 2.206, 2.207, 2.208, 2.209, 2.210, 2.211, 2.212, 2.213, 2.214, 2.215, 2.216, 2.217, 2.218, 2.219, 2.220, 2.221, 2.222, 2.223, 2.224, 2.225, 2.226, 2.227, 2.228, 2.229, 2.230, 2.231, 2.232, 2.233, 2.234, 2.235, 2.236, 2.237, 2.238, 2.239, 2.240, 2.241, 2.242, 2.243, 2.244, 2.245, 2.246, 2.247, 2.248, 2.249, 2.250, 2.251, 2.252, 2.253, 2.254, 2.255, 2.256, 2.257, 2.258, 2.259, 2.260, 2.261, 2.262, 2.263, 2.264, 2.265, 2.266, 2.267, 2.268, 2.269, 2.270, 2.271, 2.272, 2.273, 2.274, 2.275, 2.276, 2.277, 2.278, 2.279, 2.280, 2.281, 2.282, 2.283, 2.284, 2.285, 2.286, 2.287, 2.288, 2.289, 2.290, 2.291, 2.292, 2.293, 2.294, 2.295, 2.296, 2.297, 2.298, 2.299, 2.300, 2.301, 2.302, 2.303, 2.304, 2.305, 2.306, 2.307, 2.308, 2.309, 2.310, 2.311, 2.312, 2.313, 2.314, 2.315, 2.316, 2.317, 2.318, 2.319, 2.320, 2.321, 2.322, 2.323, 2.324, 2.325, 2.326, 2.327, 2.328, 2.329, 2.330, 2.331, 2.332, 2.333, 2.334, 2.335, 2.336, 2.337, 2.338, 2.339, 2.340, 2.341, 2.342, 2.343, 2.344, 2.345, 2.346, 2.347, 2.348, 2.349, 2.350, 2.351, 2.352, 2.353, 2.354, 2.355, 2.356, 2.357, 2.358, 2.359, 2.360, 2.361, 2.362, 2.363, 2.364, 2.365, 2.366, 2.367, 2.368, 2.369, 2.370, 2.371, 2.372, 2.373, 2.374, 2.375, 2.376, 2.377, 2.378, 2.379, 2.380, 2.381, 2.382, 2.383, 2.384, 2.385, 2.386, 2.387, 2.388, 2.389, 2.390, 2.391, 2.392, 2.393, 2.394, 2.395, 2.396, 2.397, 2.398, 2.399, 2.400, 2.401, 2.402, 2.403, 2.404, 2.405, 2.406, 2.407, 2.408, 2.409, 2.410, 2.411, 2.412, 2.413, 2.414, 2.415, 2.416, 2.417, 2.418, 2.419, 2.420, 2.421, 2.422, 2.423, 2.424, 2.425, 2.426, 2.427, 2.428, 2.429, 2.430, 2.431, 2.432, 2.433, 2.434, 2.435, 2.436, 2.437, 2.438, 2.439, 2.440, 2.441, 2.442, 2.443, 2.444, 2.445, 2.446, 2.447, 2.448, 2.449, 2.450, 2.451, 2.452, 2.453, 2.454, 2.455, 2.456, 2.457, 2.458, 2.459, 2.460, 2.461, 2.462, 2.463, 2.464, 2.465, 2.466, 2.467, 2.468, 2.469, 2.470, 2.471, 2.472, 2.473, 2.474, 2.475, 2.476, 2.477, 2.478, 2.479, 2.480, 2.481, 2.482, 2.483, 2.484, 2.485, 2.486, 2.487, 2.488, 2.489, 2.490, 2.491, 2.492, 2.493, 2.494, 2.495, 2.496, 2.497, 2.498, 2.499, 2.500, 2.501, 2.502, 2.503, 2.504, 2.505, 2.506, 2.507, 2.508, 2.509, 2.510, 2.511, 2.512, 2.513, 2.514, 2.515, 2.516, 2.517, 2.518, 2.519, 2.520, 2.521, 2.522, 2.523, 2.524, 2.525, 2.526, 2.527, 2.528, 2.529, 2.530, 2.531, 2.532, 2.533, 2.534, 2.535, 2.536, 2.537, 2.538, 2.539, 2.540, 2.541, 2.542, 2.543, 2.544, 2.545, 2.546, 2.547, 2.548, 2.549, 2.550, 2.551, 2.552, 2.553, 2.554, 2.555, 2.556, 2.557, 2.558, 2.559, 2.560, 2.561, 2.562, 2.563, 2.564, 2.565, 2.566, 2.567, 2.568, 2.569, 2.570, 2.571, 2.572, 2.573, 2.574, 2.575, 2.576, 2.577, 2.578, 2.579, 2.580, 2.581, 2.582, 2.583, 2.584, 2.585, 2.586, 2.587, 2.588, 2.589, 2.590, 2.591, 2.592, 2.593, 2.594, 2.595, 2.596, 2.597, 2.598, 2.599, 2.600, 2.601, 2.602, 2.603, 2.604, 2.605, 2.606, 2.607, 2.608, 2.609, 2.610, 2.611, 2.612, 2.613, 2.614, 2.615, 2.616, 2.617, 2.618, 2.619, 2.620, 2.621, 2.622, 2.623, 2.624, 2.625, 2.626, 2.627, 2.628, 2.629, 2.630, 2.631, 2.632, 2.633, 2.634, 2.635, 2.636, 2.637, 2.638, 2.639, 2.640, 2.641, 2.642, 2.643, 2.644, 2.645, 2.646, 2.647, 2.648, 2.649, 2.650, 2.651, 2.652, 2.653, 2.654, 2.655, 2.656, 2.657, 2.658, 2.659, 2.660, 2.661, 2.662, 2.663, 2.664, 2.665, 2.666, 2.667, 2.668, 2.669, 2.670, 2.671, 2.672, 2.673, 2.674, 2.675, 2.676, 2.677, 2.678, 2.679, 2.680, 2.681, 2.682, 2.683, 2.684, 2.685, 2.686, 2.687, 2.688, 2.689, 2.690, 2.691, 2.692, 2.693, 2.694, 2.695, 2.696, 2.697, 2.698, 2.699, 2.700, 2.701, 2.702, 2.703, 2.704, 2.705, 2.706, 2.707, 2.708, 2.709, 2.710, 2.711, 2.712, 2.713, 2.714, 2.715, 2.716, 2.717, 2.718, 2.719, 2.720, 2.721, 2.722, 2.723, 2.724, 2.725, 2.726, 2.727, 2.728, 2.729, 2.730, 2.731, 2.732, 2.733, 2.734, 2.735, 2.736, 2.737, 2.738, 2.739, 2.740, 2.741, 2.742, 2.743, 2.744, 2.745, 2.746, 2.747, 2.748, 2.749, 2.750, 2.751, 2.752, 2.753, 2.754, 2.755, 2.756, 2.757, 2.758, 2.759, 2.760, 2.761, 2.762, 2.763, 2.764, 2.765, 2.766, 2.767, 2.768, 2.769, 2.770, 2.771, 2.772, 2.773, 2.774, 2.775, 2.776, 2.777, 2.778, 2.779, 2.780, 2.781, 2.782, 2.783, 2.784, 2.785, 2.786, 2.787, 2.788, 2.789, 2.790, 2.791, 2.792, 2.793, 2.794, 2.795, 2.796, 2.797, 2.798, 2.799, 2.800, 2.801, 2.802, 2.803, 2.804, 2.805, 2.806, 2.807, 2.808, 2.809, 2.810, 2.811, 2.812, 2.813, 2.814, 2.815, 2.816, 2.817, 2.818, 2.819, 2.820, 2.821, 2.822, 2.823, 2.824, 2.825, 2.826, 2.827, 2.828, 2.829, 2.830, 2.831, 2.832, 2.833, 2.834, 2.835, 2.836, 2.837, 2.838, 2.839, 2.840, 2.841, 2.842, 2.843, 2.844, 2.845, 2.846, 2.847, 2.848, 2.849, 2.850, 2.851, 2.852, 2.853, 2.854, 2.855, 2.856, 2.857, 2.858, 2.859, 2.860, 2.861, 2.862, 2.863, 2.864, 2.865, 2.866, 2.867, 2.868, 2.869, 2.870, 2.871, 2.872, 2.873, 2.874, 2.875, 2.876, 2.877, 2.878, 2.879, 2.880, 2.881, 2.882, 2.883, 2.884, 2.885, 2.886, 2.887, 2.888, 2.889, 2.890, 2.891, 2.892, 2.893, 2.894, 2.895, 2.896, 2.897, 2.898, 2.899, 2.900, 2.901, 2.902, 2.903, 2.904, 2.905, 2.906, 2.907, 2.908, 2.909, 2.910, 2.911, 2.912, 2.913, 2.914, 2.915, 2.916, 2.917, 2.918, 2.919, 2.920, 2.921, 2.922, 2.923, 2.924, 2.925, 2.926, 2.927, 2.928, 2.929, 2.930, 2.931, 2.932, 2.933, 2.934, 2.935, 2.936, 2.937, 2.938, 2.939, 2.940, 2.941, 2.942, 2.943, 2.944, 2.945, 2.946, 2.947, 2.948, 2.949, 2.950, 2.951, 2.952, 2.953, 2.954, 2.955, 2.956, 2.957, 2.958, 2.959, 2.960, 2.961, 2.962, 2.963, 2.964, 2.965, 2.966, 2.967, 2.968, 2.969, 2.970, 2.971, 2.972, 2.973, 2.974, 2.975, 2.976, 2.977, 2.978, 2.979, 2.980, 2.981, 2.982, 2.983, 2.984, 2.985, 2.986, 2.987, 2.988, 2.989, 2.990, 2.991, 2.992, 2.993, 2.994, 2.995, 2.996, 2.997, 2.998, 2.999, 3.000.

2. In § 2.715, paragraph (c) is revised to read as follows:

§ 2.715 Participation by a person not a party.

(c) The presiding officer will afford representatives of an interested State, county, municipality, Federally-recognized Indian Tribe, and/or agencies thereof, a reasonable opportunity to participate and to introduce evidence, interrogate witnesses, and advise the Commission without requiring the representative to take a position with respect to the issue. Such participants may also file proposed findings and exceptions pursuant to §§ 2.754 and 2.762 and petitions for review by the Commission pursuant to § 2.786. The presiding officer may require such representative to indicate with reasonable specificity, in advance of the hearing, the subject matters on which he desires to participate.

3. In § 2.1211, paragraph (b) is revised to read as follows:

§ 2.1211 Participation by a person not a party.

(b) Within 30 days of an order granting a request for a hearing under § 2.1205 (b) through (d) or, in instances when it is published, within 30 days of notice of hearing issued under § 2.1205(j), the representative of an interested State, county, municipality, Federally-recognized Indian Tribe, and/or agencies thereof, may request an opportunity to participate in a proceeding under this subpart. The request for an opportunity to participate must state with reasonable specificity the requester's area of concern about the licensing activity that is the subject matter of the proceeding. Upon receipt of a request that is filed in accordance with these time limits and that specifies the requester's areas of concern, the presiding officer shall afford the requester a reasonable opportunity to make written and oral presentations in accordance with §§ 2.1233 and 2.1235, without requiring the representative to take a position with respect to the issues. Participants under this paragraph may notice an appeal of an initial decision in accordance with § 2.1253 with respect to any issue on which they participate.

Dated at Rockville, Maryland, this 24th day of May 1999.

For the Nuclear Regulatory Commission,
Annette Vietti-Cook,
Secretary of the Commission.
[FR Doc. 99-13654 Filed 5-28-99; 8:45 am]
BILLING CODE 7590-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. CE149; Notice No. 23-98-05-SC]

Special Conditions: Soloy Corporation Model Pathfinder 21 Airplane; Airframe

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Reopening of comment period.

SUMMARY: This notice announces the reopening of the comment period for the proposed special conditions for the Soloy Corporation Model Pathfinder 21 airplane. The reopening responds to a request from Soloy Corporation. The reopening is needed to permit Soloy additional time to comment on the proposed special conditions.

DATES: Comments must be received on or before July 1, 1999.

ADDRESSES: Comments may be mailed in duplicate to: Federal Aviation Administration, Regional Counsel,

ACE-7, Attention: Rules Docket, Docket No. CE149, 601 East 12th Street, Kansas City, Missouri 64106, or delivered in duplicate to the Regional Counsel at the above address. Comments must be marked: Docket No. CE149. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: David Keenan, Federal Aviation Administration, Aircraft Certification Service, Small Airplane Directorate, ACE-111, 601 East 12th Street, Kansas City, Missouri, 816-426-6934, fax 816-426-2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of these proposed special conditions by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. The proposals described in this notice may be changed in light of the comments received. All comments received will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include with those comments a self-addressed, stamped postcard on which the following statement is made "Comments to Docket No. CE149." The postcard will be date stamped and returned to the commenter.

Availability of Special Conditions

Any person may obtain a copy of these special conditions by submitting a request to the Federal Aviation Administration, at the address specified under the **ADDRESS** section. Communications must identify Docket No. CE149.

Background

On March 9, 1999, the FAA issued Notice No. 23-98-05-SC (64 FR 14401, March 25, 1999). This notice proposed special conditions for the Soloy Corporation Model Pathfinder 21 airplane. The proposal resulted from a request by Soloy Corporation for a supplemental type certificate for the Model Pathfinder 21 airplane.

On April 21, 1999, Soloy Corporation requested that the comment period be extended in order to allow them sufficient time to comment on the proposals. The comment period was scheduled to close April 26, 1999.

Conclusion

Soloy requested the special conditions originally, and the request to extend the comment period came from Soloy. In view of this fact, and since Soloy may provide additional technical information, the FAA agrees that it would be in the public interest to grant Soloy Corporation's request to extend the comment period. Since the request to extend the comment period arrived near the end of the comment period, the FAA has decided to reopen the comment period. Accordingly, the comment period for Notice No. 23-98-05-SC, Docket No. CE149, is reopened until July 1, 1999.

List of Subjects in 14 CFR Part 23

Aircraft. Aviation safety, Signs and symbols.

Issued in Kansas City, Missouri on May 13, 1999.

Marvin Nuss,

Acting Manager, Small Airplane Directorate
Aircraft Certification Service.

[FR Doc. 99-13819 Filed 5-28-99; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

[KY-221-FOR]

Kentucky Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Kentucky regulatory program (Kentucky program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to the Kentucky regulations pertaining to general requirements for performance bonds and liability insurance. The amendment is intended to revise the Kentucky program to be consistent with the corresponding Federal regulations.

DATES: If you submit written comments, they must be received by 4 p.m.,

(E.D.T.), July 1, 1999. If requested, a public hearing on the proposed amendment will be held on June 28, 1999. Requests to speak at the hearing must be received by 4 p.m., (E.D.T.), on June 16, 1999.

ADDRESSES: Mail or hand-deliver your written comments and requests to speak at the hearing to William J. Kovacic, Field Office Director, at the address listed below.

You may review copies of the Kentucky program, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the proposed amendment by contacting OSM's Lexington Field Office.

William J. Kovacic, Director, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 2675 Regency Road, Lexington, Kentucky 40503. Telephone: (606) 233-2894. E-Mail: bkovacic@osmre.gov.
Department of Surface Mining Reclamation and Enforcement, 2 Hudson Hollow Complex, Frankfort, Kentucky 40601. Telephone: (502) 564-6940.

FOR FURTHER INFORMATION CONTACT: William J. Kovacic, Director, Lexington Field Office, Telephone: (606) 233-2894.

SUPPLEMENTARY INFORMATION:

I. Background on the Kentucky Program

On May 18, 1982, the Secretary of the Interior conditionally approved the Kentucky program. You can find background information on the Kentucky program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the May 18, 1982, **Federal Register** (47 FR 21404). You can find subsequent actions concerning the conditions of approval and program amendments at 30 CFR 917.11, 917.13, 917.15, 917.16, and 917.17.

II. Description of the Proposed Amendment

By letter dated May 4, 1999 (Administrative Record No. KY-1459), Kentucky submitted a proposed amendment to its program at 405 KAR 10:010. Specifically, Kentucky proposes to authorize the cabinet to promulgate administrative regulations relating to surface and underground coal mining operations. This administrative regulation establishes the requirements for filing and maintaining performance

bonds and liability insurance, and bonding methods. Kentucky also proposes to incorporate by reference a new performance bond form SME-42-F for coal mining operations on Federal lands. This form is necessary to implement the November 2, 1998, Federal/State cooperative agreement for Federal lands. It is a two-page standard form for a performance bond. The proposed regulation also incorporates changes to the existing bond form SME-42 for operations on non-Federal lands. It deletes the requirement to enter the name of the community located near the lands covered by the bond and deletes the requirement that a bond executed by an out-of-state surety be countersigned by a resident Kentucky agent.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Kentucky program.

Written Comments

Your written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Lexington Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

If you wish to speak at the public hearing, you should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., (E.D.T.) on June 16, 1999. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to

speak and persons present in the audience who wish to speak have been heard.

Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT**.

Public Meeting

If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. If you wish to meet with OSM representatives to discuss the proposed amendment, you may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National

Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Unfunded Mandates

This rule will not impose a cost of \$100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 917

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 24, 1999.

H. Vann Weaver,

Acting Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 99-13808 Filed 5-28-99; 8:45 am]

BILLING CODE 4310-05-U

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 943

[SPATS No. TX-041-FOR]

Texas Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of an amendment to

the Texas regulatory program (Texas program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Texas proposes to add revegetation success and normal husbandry practice guidelines to its program. Texas intends to revise its program to ensure that adequate data collection methods are used for determining revegetation success for purposes of releasing reclamation performance bonds and to ensure that the husbandry practices used by the permittee during the period of responsibility for revegetation success and bond liability are normal husbandry practices within the region for unmined lands.

This document gives the times and locations that the Texas program and the amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we follow for the public hearing, if one is requested.

DATES: We will accept written comments until 4 p.m., c.d.t., July 1, 1999. If requested, we will hold a public hearing on the amendment on June 28, 1999. We will accept requests to speak at the hearing until 4:00 p.m., c.d.t. on July 16, 1999.

ADDRESSES: You should mail or hand deliver written comments and requests to speak at the hearing to Michael C. Wolfrom, Director, Tulsa Field Office, at the address listed below.

You may review copies of the Texas program, the amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Tulsa Field Office.

Michael C. Wolfrom, Director, Tulsa Field Office, Office of Surface Mining, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma 74135-6547. Telephone: (918) 581-6430.

Surface Mining and Reclamation Division, Railroad Commission of Texas, 1701 North Congress Avenue, Capitol Station, P. O. Box 12967, Austin, Texas 78711-2967. Telephone: (512) 463-6900.

FOR FURTHER INFORMATION CONTACT: Michael C. Wolfrom, Director, Tulsa Field Office. Telephone: (918) 581-6430. Internet: mwolfrom@tokgw.osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Texas Program

On February 16, 1980, the Secretary of the Interior conditionally approved the Texas program. You can find background information on the Texas program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the February 27, 1980, **Federal Register** (45 FR 12998). You can find later actions concerning the Texas program at 30 CFR 943.10, 943.15, and 943.16.

II. Description of the Proposed Amendment

By letter dated May 13, 1999 (Administrative Record No. TX-649), Texas sent us an amendment to its program under SMCRA. Texas sent the amendment at its own initiative. The amendment includes a guidance document on the procedures and standards for determining revegetation success on surface-mined lands in Texas and a guidance document on the normal husbandry practices that permittees are to use during the period of responsibility for revegetation success and bond liability (extended responsibility period). Below is a summary of the two documents. The full text of the program amendment is available for your inspection at the locations listed above under **ADDRESSES**.

1. Revegetation Success Guidelines: Procedures and Standards for Determining Revegetation Success on Surface-Mined Lands in Texas

Texas is proposing a guideline document that describes the procedures and standards for determining revegetation success on reclaimed surface mined lands in Texas.

a. Section I contains introductory information. Revegetation success must be demonstrated by using the revegetation standards and statistically valid sampling techniques for measuring success contained in the proposed guideline document. The use of the methods contained in this guidance document by mining companies operating in Texas will provide assurance that adequate data collection methods have been used for determining revegetation success for purposes of releasing reclamation performance bond funds. Mining companies may propose alternative procedures for sampling and analysis of vegetation data. However, the use of alternative methods must be approved by Texas, and the alternative methods must be included in the approved regulatory program.

b. Section II describes the regulatory requirements for meeting revegetation

success under the Texas Surface Coal Mining and Reclamation Act at sections 134.041, .092(a)(19) and (20), and .104 and the implementing performance standards for revegetation success in the Texas Coal Mining Regulations at Title 16, Texas Administrative Code (TAC) 12.390 through 12.395, and 12.399.

c. Section III identifies specific concepts and requirements to be followed in developing revegetation evaluation plans.

d. Section IV provides the approved methods for implementing the various evaluation methods for ground cover, productivity, and woody-plant stocking, including the proper selection of observation points. Measurement methods are presented for all vegetation parameters. Measurement results must be compared to either approved reference areas or technical success standards. Subsection A provides information on the selection of observation points for collecting vegetation data. Subsection B provides guidance on adjusting for field conditions when conducting vegetation surveys. Subsection C provides guidelines for ground cover measurements. Subsection D contains guidance for measurement of productivity. Subsection E provides guidelines for woody plant stocking. Subsection F contains guidance on selecting and management of reference areas.

e. Section V lists the revegetation success standards for each land use type and provides information on determining productivity of the reclaimed areas. Nine general types of land use are included: grazingland, pastureland, cropland, forestry, fish and wildlife habitat, undeveloped land, industrial/commercial, residential, and recreation. Subsection A provides guidelines relating to ground cover and productivity standards for grazingland and pastureland. Subsection B contains guidance on the ground cover and productivity standards for cropland. Subsection C provides guidelines on the ground cover standards and woody-plant stocking rates for the forestry land use category. Subsection D contains guidance on ground cover standards and woody-plant rates for fish and wildlife habitat. Subsection E provides guidelines on ground cover standards and woody-plant stocking rates for undeveloped land. Subsection F includes guidelines relating to ground cover standards and woody-plant stocking rates for industrial/commercial land uses. Subsection G provides guidance on ground cover standards and woody-plant stocking rates for residential land uses. Subsection H

contains guidelines on ground cover standards and woody-plant stocking rates for recreation land uses.

Subsections A through H include the steps to be followed for measurement and statistical comparison when either reference areas or technical standards are used as a measure for revegetation success. These subsections also contain information on evaluating ground cover measurements in conjunction with the species composition, when applicable.

f. Section VI provides a listing of the literature used in developing the proposed guideline document. Appendix A contains the statistical information, including equations and tables, to be used in the determination of revegetation success for ground cover, productivity, and woody-plant stocking. Appendix B provides a table summarizing the revegetation success standards for all land uses. The table in Appendix B includes the revegetation parameters, performance standards, and conditions for bond release relating to each land use. Appendix C contains examples of revegetation success determinations for ground cover, productivity involving herbaceous biomass, and woody plant stem counts. Attachment 1 is a document entitled "The Development of the Forage Production Standards for Post Mine Soils" by the United States Department of Agriculture—Natural Resources Conservation Service (USDA—NRCS). Attachment 2 is a document entitled "Texas Parks and Wildlife Department Recommendations for the Development of Success Standards for Woody-Plant Stocking Rates." Attachment 3 is a document entitled "Texas Forest Service Recommendations for Reforestation of Pine and Hardwoods in Texas."

2. Guidelines for Normal Husbandry Practices for Surface-Mined Lands in Texas

Texas is proposing a guideline document that describes the husbandry practices to be used by the permittee during the period of responsibility for revegetation success and bond liability. These practices are normal husbandry practices within the region for unmined lands.

a. Section I contains introductory information. The guideline document includes the normal husbandry practices that permittees must use for disease and pest control, application of fertilizers, application and incorporation of other soil amendments, and any other necessary soil vegetation management activities on surface-mined lands in Texas during the extended responsibility period. Husbandry

practices not included in this document may be considered augmentative in nature and, if performed on land that is currently in the extended responsibility period, may restart that period. The decision whether a particular activity can be classified as a normal husbandry practice will depend both on the regulatory requirements of the Texas Coal Mining Regulations and the postmining land use. Texas discusses its regulatory requirements in section II of the document.

b. Section III describes the conventions for normal husbandry practices. Texas lists the following three conventions regarding normal husbandry practices for surface-mined lands in Texas:

1. Normal husbandry practices are region-specific and include activities performed by landowners managing lands not disturbed by mining activities.

2. Normal husbandry practices are those activities that can be expected to continue as part of the postmining land use.

3. Discontinuance of the husbandry practices will not reduce the probability of revegetation success.

Texas also provides examples of the applicability of the conventions listed in items 1 and 3.

c. In section IV, Texas proposes normal husbandry practices for six vegetative community postmining land uses defined in the Texas program: grazingland, pastureland, cropland, forestry, fish and wildlife habitat, and undeveloped land. The normal husbandry practices listed for grazingland, pastureland, cropland, forestry, and fish and wildlife habitat are divided into three general categories: general management of soil and vegetation; addition of plant nutrients and other soil amendments; and pest management. Reference documents defining the normal husbandry practices for each category are listed. Texas submitted copies of these reference documents to support its proposed practices for disease and pest control, application of fertilizers, application and incorporation of other soil amendments, and other necessary soil vegetation management activities on surface-mined lands. Because the definition of undeveloped land excludes any type of management inputs during the extended responsibility period, Texas is only allowing limited erosion repair for this land use.

d. In section V, Texas provides guidelines for erosion repair, other damage repair, reseeding areas, overseeding, and restocking of woody species. Texas also included a provision for regrading and revegetation of areas

where temporary structures have been removed.

Texas may consider repair of erosion or other types of damage as a normal husbandry practice, provided that the damage is not caused by a lack of planning, design, or implementation of the mining and reclamation plan. The total acreage of repaired areas cannot exceed three contiguous acres or ten percent of the total land of the extended responsibility area. In cases of erosion, repairs may be considered non-augmentative if rill and gully damage was caused by precipitation exceeding a 10-year/24-hour event or damage occurred before the first two years of a 5-year extended responsibility period (areas with annual precipitation >26 inches) or four years of a 10-year extended responsibility period (areas with annual precipitation ≤26 inches). After the first two or four years, whichever is applicable, total acreage for erosion repair cannot exceed one contiguous acre or two percent of the total land of that extended responsibility area.

Texas will determine whether or not regrading and revegetation of areas where temporary structures such as sediment ponds, roads, and small diversions have been removed are non-augmentative on a case-by-case basis. Areas that may pose significant potential for reclamation problems will require a separate extended responsibility period.

Overseeding of winter cover crops and/or summer annuals, into existing vegetation, is considered a normal husbandry practice. Restocking of woody species is allowed, as long as the time and quantity of restocking is in compliance with Texas' regulations at 16 TAC 12.395(b)(3)(B).

Reference documents defining the normal husbandry practices relating to general management, addition of plant nutrients and other soil amendments, and pest management for erosion repair and reseeded areas are listed in this section. Texas submitted copies of these reference documents to support these practices.

e. In section VI, Texas lists those activities that are considered unacceptable husbandry practices. The activities include: reseeding of areas devoid of vegetation due to acid mine soils; irrigation; supplemental watering of herbaceous vegetation and supplemental watering of large woody stock later than two years after planting; all application and incorporation of alkaline amendments, except for non-excessive application; and excessive application of plant nutrients.

If any of the listed practices are performed, the extended responsibility period for the affected areas will restart. Texas does not consider practices required to address problems that arise from mining-related activities as normal husbandry practices. Texas will use information from field inspection reports and mine-soil chemical analysis data to evaluate unacceptable husbandry practices or augmentation.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are requesting comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Texas program.

Written Comments

Your written comments should be specific and pertain only to the issues proposed in this rulemaking. You should explain the reason for any recommended change. In the final rulemaking, we will not necessarily consider or include in the Administrative Record any comments received after the time indicated under **DATES** or at locations other than the Tulsa Field Office.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., c.d.t. on July 16, 1999. We will arrange the location and time of the hearing with those persons requesting the hearing. If you are disabled and need special accommodations to attend a public hearing, contact the individual listed under **FOR FURTHER INFORMATION CONTACT**. We will not hold the hearing if no one requests an opportunity to speak at the public hearing.

You should file a written statement at the time you request the hearing. This will allow us to prepare adequate responses and appropriate questions. The public hearing will continue on the specified date until all persons scheduled to speak have been heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

Public Meeting

If only one person requests an opportunity to speak at a hearing, we may hold a public meeting, rather than a public hearing. If you wish to meet

with us to discuss the amendment, request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We will also make a written summary of each meeting part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

The Office of Management and Budget (OMB) exempts this rule from review under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on State regulatory programs and program amendments must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

This rule does not require an environmental impact statement since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal

which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Therefore, this rule will ensure that existing requirements previously published by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

Unfunded Mandates

OSM has determined and certifies under the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of \$100 million or more in any given year on local, state, or tribal governments or private entities.

List of Subjects in 30 CFR Part 943

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 24, 1999

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center

[FR Doc. 99-13809 Filed 5-28-99; 8:45 am]

BILLING CODE 4310-05-P

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 884

RIN 0701-AA59

Delivery of Personnel to United States Civilian Authorities for Trial

AGENCY: Department of the Air Force, DoD.

ACTION: Proposed rule.

SUMMARY: The Department of the Air Force is revising 32 CFR Part 884, Delivery of Personnel to United States Civilian Authorities for Trial of the Code of Federal Regulations to reflect current policies. Part 884 is the Air Force Instruction establishing procedures for making Air Force members, civilian personnel, and family members available to U.S. civilian authorities for trial or specified court appearances. It updates the process for delivery of personnel to civilian authorities for trial.

DATES: Written comments must be received by August 2, 1999.

ADDRESSES: Send written comments to: Lt. Col. Tom Jaster, AFLSA/JAJM, 112

Luke Avenue, Suite 343, Bolling Air Force Base, DC 20332-8000. 202-767-1539

FOR FURTHER INFORMATION CONTACT: Lt. Col. Tom Jaster, AFLSA/JAJM, 202-767-1539

SUPPLEMENTARY INFORMATION: Part 884 implements Department of Defense (DoD) Directive 5525.9, Compliance of DoD Members, Employees, and Family Members Outside the United States With Court Orders, December 27, 1988 and AFPD 51-10, Making Military Personnel, Employees, and Dependents Available to Civilian Authorities

Authority: 10 U.S.C. 814; 10 U.S.C. 8013; Sec. 721(a) Pub. L. 100-456, 102 Stat. 2001

List of Subjects in 32 CFR Part 884

Courts, Government employees, Law enforcement, Military personnel.

For the reasons set forth in the preamble, the Department of the Air Force proposes to revise 32 CFR Part 884 as follows:

PART 884—DELIVERY OF PERSONNEL TO UNITED STATES CIVILIAN AUTHORITIES FOR TRIAL

- Sec.
- 884.0 Purpose
- 884.1 Authority
- 884.2 Assigned responsibilities
- 884.3 Placing member under pending delivery.
- 884.4 Release on bail or recognizance.
- 884.5 Requests under the interstate agreement on Detainer's Act
- 884.6 Requests by Federal authorities for military personnel stationed within the United States and its possessions
- 884.7 Requests by state and local authorities when the requested member is located in that state.
- 884.8 Request for delivery by state authorities when the member is located in a different state.
- 884.9 Requests for custody of members stationed outside the United States.
- 884.10 Returning members, employees, and family members from overseas
- 884.11 Procedures for return of an Air Force member to the United States
- 884.12 Delays in returning members to the United States.
- 884.13 Denials of a request for return of a member to the United States
- 884.14 Compliance with court orders by civilian employees and family members
- 884.15 Procedures involving a request by Federal or state authorities for custody of an overseas civilian employee or a command-sponsored family member
- 884.16 Reporting requests for assistance and action.
- 884.17 Commander's instruction letter to member
- 884.18 Civilian authorities acknowledgment of transfer and agreement to notify member's commander

Authority: 10 U.S.C. 814; 10 U.S.C. 8013; Sec. 721(a), Pub. L. 100-456, 102 Stat. 2001

§ 884.01 Purpose.

This part establishes procedures for making Air Force members, civilian personnel, and family members available to U.S. civilian authorities for trial or specified court appearances. It implements 32 CFR part 146. This part does not confer any rights, benefits, privileges, or form of due process procedure upon any individuals

§ 884.1 Authority.

A general court-martial convening authority (GCMCA) may authorize delivery of a member of that command to Federal or state civil authorities. The GCMCA may delegate this authority to an installation or equivalent commander. See AFPD 51-10, Making Military Personnel, Employees, and Dependents Available to Civilian Authorities,¹ paragraphs 8 and 9, for sources of authority.

§ 884.2 Assigned responsibilities.

(a) The Under Secretary of Defense (USD), Personnel & Readiness (P&R), is the denial authority for all requests for return of members to the United States for delivery to civilian authorities when the request falls under § 884.9(e).

(b) The Air Force Judge Advocate General (TJAG) may approve requests that fall under § 884.9(e) or recommend denial of such requests. TJAG or a designee may approve or deny:

(1) Requests for return of members to the United States for delivery to civilian authorities when the request falls under § 884.9(f).

(2) Requests for delays of up to 90 days in completing action on requests for return of members to the United States for delivery to civilian authorities.

(c) The Air Force Legal Services Agency's Military Justice Division (HQ AFLSA/JAJM), 172 Luke Avenue, Suite 343, Bolling AFB, DC 20332-5113, processes requests for return of members to the United States for delivery to civilian authorities and notifies requesting authorities of decisions on requests. HQ AFLSA/JAJM completes action on requests within 30 days after receipt of the request, unless a delay is granted; they send all reports and notifications to USD/P&R and to the DoD General Counsel (DoD/GC), as required by this part; and they handle all communications with requesters.

¹ Air Force publications may be obtained through NTIS, 5285 Port Royal Road, Springfield, VA 22161, if not available online at <http://afpubs.hq.af.mil>

§ 884.3 Placing member under restraint pending delivery.

Continue restraint only as long as is reasonably necessary to deliver the member to civilian authorities. See AFPD 51-10, paragraph 5. To determine whether probable cause exists and whether a reasonable belief exists that restraint is necessary, the commander should refer to the Manual for Courts-Martial (MCM), 1984, specifically, Rules for Courts-Martial (RCM) 305(h)(2)(B), and the discussion following it. The requirement for the formal review of restraint found in MCM 1984, RCM 305, and AFI 51-201, Military Justice Guide,² does not apply.

§ 884.4 Release on bail or recognizance.

(a) Before delivering an Air Force member to a civilian authority, the commander or designee directs the member in writing to report to a designated Air Force unit, activity, or recruiting office for further instructions in the event the civilian authority releases the member (see § 884.17). The commander designates the member's unit, if the civilian authority is in the immediate vicinity of the member's base. The commander advises the designated Air Force unit, activity, or recruiting office of the situation. Once the member has been released and has reported to the designated authority, it immediately sends the member's name, rank, Social Security number (SSN), organization, and other pertinent information to the member's commander, who then provides further instructions.

(b) The member's commander notifies the military personnel flight (MPF) of the situation. In turn, the MPF provides an information copy to the Air Force Personnel Center (AFPC) assignment office responsible for the member's Air Force specialty code (AFSC), as listed in AFMAN 36-2105, Officer Classification,³ or AFMAN 36-2108, Airman Classification.³ If contact cannot be made with the member's commander, the Air Force unit, activity, or recruiting office previously designated by the commander obtains instructions from HQ AFPC/DPMARS or DPMRPP2.

§ 884.5 Requests under the interstate agreement on Detainer's Act.

When either the prisoner or state authorities make a request under the Detainer's Act, follow the procedures in Title 18 U.S.C. App. Section 1, *et seq.* The Act applies only to a person who has entered upon a term of imprisonment in a penal or correctional

institution and is, therefore, inapplicable to members in pretrial confinement.

§ 884.6 Request by Federal authorities for military personnel stationed within the United States and its possessions.

(a) When Federal authorities request the delivery of service members, the Air Force will normally deliver service members when the request is accompanied by a warrant issued pursuant to the Federal Rules of Criminal Procedure, rule 4, or when a properly identified Federal officer represents that such a warrant has been issued.

(b) A U.S. marshal, deputy marshal, or other officer authorized by law will call for and take into custody persons desired by Federal authorities for trial. The officer taking custody must execute a statement in substantially the form set out in § 884.18.

§ 884.7 Requests by state and local authorities when the requested member is located in that state.

(a) The Air Force normally will turn over to the civilian authorities of the state, upon their request, Air Force members charged with an offense against state or local law. Each request by such civilian authorities for the surrender of a member of the Air Force should normally be accompanied by a copy of an indictment, information, or other document used in the state to prefer charges, or a warrant that reflects the charges and is issued by a court of competent jurisdiction.

(b) Before making delivery to civilian authorities of a state, the commander having authority to deliver will obtain a written agreement, substantially in the form of § 884.18, from a duly authorized officer of the state.

(c) Where the state authority cannot agree to one or more of the conditions set out in the form, the commander may authorize modification. The requirements of the agreement are substantially met when the state authority informs the accused's commander of the accused's prospective release for return to military authorities and when the state furnishes the accused transportation back to his or her station, together with necessary funds to cover incidental expenses en route. The accused's commander provides copies of the statement or agreement of this section and in § 884.6(b) to the civilian authority to whom the member was delivered and to the Air Force unit, activity, or recruiting office nearest to the place of trial designated in the agreement as the point of contact in the event of release on bail or on

recognizance (see § 884.4). The accused's commander immediately notifies the civilian authority if the member has been discharged from the Air Force.

§ 884.8 Request for delivery by state authorities when the member is located in a different state.

(a) This part applies to members who are located in the United States. With respect to the extradition process, Air Force personnel have the same status as persons not in the Armed Forces. Accordingly, if a state other than the state in which the member is located requests the delivery of a military member, in the absence of a waiver of extradition process by the member concerned, that state must use its normal extradition procedures to make arrangements to take the individual into custody in the state where he or she is located.

(b) The Air Force will not transfer a military member from a base within one state to a base within another state for the purpose of making the member amenable to prosecution by civilian authorities.

§ 884.9 Request for custody of members stationed Outside the United States.

(a) Authority. This section implements Pub. L. 100-456, section 721(a), and DoD Directive 5525.9, December 27, 1988.

(b) The Air Force expects members to comply with orders issued by Federal or state court of competent jurisdiction, unless noncompliance is legally justified. Air Force members who persist in noncompliance are subject to adverse administrative action, including separation for cause under AFI 36-3206, Administrative Discharge Procedures, and AFI 36-3208, Administrative Separation of Airmen.

(c) Air Force officials will ensure that members do not use assignments or officially sponsored residence outside the United States to avoid compliance with valid orders of Federal or state court of competent jurisdiction.

(d) Noncompliance with a court order may be legally justified when the individual can adequately demonstrate that the conduct, which is the subject of the complaint or request, was sanctioned by supplemental court orders, equally valid court orders of other jurisdictions, good faith legal efforts to resist the request, or other reasons. HQ USAF/JAG, HQ AFLSA/JACA, and Air Force legal offices in the jurisdiction concerned will provide legal support to servicing staff judge advocates who request assistance in reviewing these issues.

² See footnote 1 in § 884.1.

³ See footnote 1 in § 884.1.

(e) When Federal, state, or local authorities request delivery of an Air Force member stationed outside the United States who is convicted of or charged with a felony or other serious offense or who is sought by such authorities in connection with the unlawful or contemptuous taking of a child from the jurisdiction of a court or from the lawful custody of another person, the member's commander will normally expeditiously return the member to the United States for delivery to the requesting authorities.

(1) A serious offense is defined as one punishable by confinement for more than 1 year under the laws of the requesting jurisdiction.

(2) Delivery of the member is not required if the controversy can be resolved without returning the member to the United States or if the request for delivery of the member is denied in accordance with this instruction.

(f) Ordinarily, do not return an Air Force member stationed outside the United States to the United States for delivery to civilian authorities if the offense is not specified in paragraph (e) of this section. TJAG may direct return when deemed appropriate under the facts and circumstances of the particular case.

(g) Before taking action under this section, give the member the opportunity to provide evidence of legal efforts to resist the court order or process sought to be enforced or otherwise to show legitimate cause for noncompliance.⁴

§ 884.10 Returning members, employees, and family members from overseas.

The Air Force expects persons overseas wanted by Federal or state authorities to make themselves available to those authorities for disposition. If they do not, DoD Directive 5525.9, Compliance of DoD Members, Employees, and Family Members Outside the United States With Court Orders, 10 U.S.C 814, and Pub. L. 100-456 721(a), authorize and require commanders to respond promptly to requests from civilian authorities for assistance in returning members, civilian employees, and family members from overseas.

§ 884.11 Procedures for return of an Air Force member to the United States.

(a) Include the following information in a request for return of an Air Force member to the United States for delivery to civilian authorities:

(1) Fully identify the member sought by providing the member's name, grade,

SSN, and unit of assignment, to the extent the information is known.

(2) Specify the offense for which the member is sought. If the member is charged with a crime, specify the maximum punishment under the laws of the requesting jurisdiction. Specify whether the member is sought in connection with the unlawful or contemptuous taking of a child from the jurisdiction of a court or the lawful custody of another.

(3) Include copies of all relevant requests for assistance, indictments, information, or other instruments used to bring charges, all relevant court orders or decrees, and all arrest warrants, writs of attachment or *capias* (writs authorizing arrests), or other process directing or authorizing the requesting authorities to take the member into custody. Also, include reports of investigation and other materials concerning the background of the case if reasonably available.

(4) Indicate whether the requesting authorities will secure the member's lawful delivery or extradition from the port of entry to the requesting jurisdiction, whether they will do so at their own expense, and whether they will notify HQ AFLSA/JAJM of the member's release from custody and of the ultimate disposition of the matter.

(5) Any U.S. attorney or assistant U.S. attorney, governor or other duly authorized officer of a requesting state or local jurisdiction, or the judge, magistrate, or clerk of a court of competent jurisdiction must sign the request.

(b) Civilian authorities making requests for return of members to the United States for delivery to them should direct their request to HQ AFLSA/JAJM. If another Air Force agency or official receives the request, immediately send it to HQ AFLSA/JAJM.

(c) Upon receipt of a request, HQ AFLSA/JAJM promptly notifies the member's commander, who consults with the servicing staff judge advocate. The commander provides a report of relevant facts and circumstances and recommended disposition of the request through command channels to HQ AFLSA/JAJM. If the commander recommends denial of the request or a delay in processing or approving it, the commander provides the information specified in § 884.12(a)(1) through (a)(4) or § 884.13(a)(1) through (a)(4).

(d) After proper authority has approved a request for return of a member to the United States for delivery to civilian authorities, HQ AFLSA/JAJM notifies AFPC of the decision to return the member to the United States. AFPC

issues permanent change of station (PCS) orders, assigning the member to an installation as close to the requesting jurisdiction as possible, considering the needs of the Air Force for personnel in the member's rank and AFSC.

(e) HQ AFLSA/JAJM notifies requesting authorities of the member's new assignment, port of entry into the United States, and estimated time of arrival. Except during unusual circumstances, HQ AFLSA/JAJM notifies requesting authorities at least 10 days before the member's return.

§ 884.12 Delays in returning members to the United States.

(a) On a request to return a member to the United States for delivery to civilian authorities, TJAG may grant a delay of not more than 90 days in completing action when one or more of the following are present:

(1) Efforts are in progress to resolve the controversy to the satisfaction of the requesting authorities without the member's return to the United States.

(2) Additional time is required to permit the member to provide satisfactory evidence of legal efforts to resist the request or to show legitimate cause for noncompliance.

(3) Additional time is required to permit the commander to determine the specific effect of the loss of the member on command mission and readiness or to determine pertinent facts and circumstances relating to any international agreement, foreign judicial proceeding, DoD, Air Force, or other military department investigation or court-martial affecting the member.

(4) Other unusual facts or circumstances warrant delay.

(b) AFLSA/JAJM promptly reports all delays in cases falling under AFD 51-10,⁵ paragraph 3, through SAF/GC and SAF/MI to USD/P&R and to DoD/GC.

(c) Delays in excess of 90 days are not authorized in cases falling under AFD 51-10, paragraph 3, unless approved by USD/P&R.

§ 884.13 Denials of a request for return of a member to the United States.

(a) A request for return of a member to the United States for delivery to civilian authorities may be denied when:

(1) The member's return would have an adverse impact on operational readiness or mission requirements.

(2) An international agreement precludes the member's return.

(3) The member is the subject of foreign judicial proceedings, court-martial, or a DoD, Air Force, or other military department investigation.

⁴ See footnote in § 884.1

(d) If the member showed satisfactory evidence of legal efforts to resist the request or other legitimate cause for noncompliance or when other unusual facts or circumstances warrant a denial.

(e) Commanders promptly send to HQ AFLSA/JAM information supporting a determination that denial may be appropriate. In cases warranting denial, TIAG promptly sends a recommendation and supporting documentation, through SAF/GC and SAF/M, to USD/P&R for decision.

(f) The fact that a recommendation for denial is pending does not by itself authorize noncompliance or a delay in compliance with any provision of this section, but TIAG may consider a pending request for denial in determining whether to grant a delay.

§ 884.14 Compliance with court orders by civilian employees and family members.

(a) The Air Force expects civilian employees and family members to comply with orders issued by Federal or state court of competent jurisdiction, unless noncompliance is legally justified. Air Force civilian employees who persist in noncompliance are subject to adverse administrative action, including separation for cause as provided in AFI 36-704, Discipline and Adverse Actions (PA).⁶

(b) Air Force officials ensure that civilian personnel and family members do not use assignments or officially sponsored residence outside the United States to avoid compliance with valid orders of Federal or state court of competent jurisdiction.

§ 884.15 Procedures involving a request by Federal or state authorities for custody of an overseas civilian employee or a command-sponsored family member.

(a) The procedures of this section apply to civilian employees, including nonappropriated fund instrumentality (NAFI) employees, who are assigned outside the United States, and to command-sponsored family members residing outside the United States.

(b) This section applies only when Air Force authorities receive a request for assistance from Federal, state, or local authorities involving noncompliance with a court order and when noncompliance is the subject of any of the following: an arrest warrant; indictment, information, or other document used in the jurisdiction to prefer charges; or a contempt citation involving the unlawful or contemptuous removal of a child from the jurisdiction of the court or the lawful custody of a parent or third party.

(c) To the maximum extent possible, consistent with provisions of international agreements and foreign court orders, DoD and military department investigations, and judicial proceedings, commanders comply with requests for assistance. After exhausting all reasonable efforts to resolve the matter without the employee or family member returning to the United States, the commander shall strongly encourage the individual to comply. The commander shall consider imposing disciplinary action (including removal) against the employee or withdrawing command sponsorship of the family member, as appropriate, for failure to comply.

§ 884.16 Reporting requests for assistance and action.

The commander or designee promptly reports each request for assistance and intended action by message. Send reports to HQ AFLSA/JAM, which submits required reports, through channels, to USD/P&R. HQ AFLSA/JAM conducts all communications with requesters.

§ 884.17 Commander's instruction letter to member.

Subject: Instructions in Case of Release on Bail or Personal Recognizance

1. You are being delivered to the custody of civilian authorities, pursuant to the provisions of AFI 51-1001. This action does not constitute a discharge from the Air Force. In the event that you are released from civilian custody on bail or on your own recognizance, report immediately in person or by telephone to the (Air Force unit, activity, or recruiting office) for further instructions. Advise the commander of your name, rank, SSN, organization, the circumstances of your release from custody, and the contents of this letter.

2. Certain restrictions may be placed upon you by civilian authorities in connection with your temporary release from custody. Be certain to include in your report what these limitations are.

3. AFI 51-1001, paragraph 4 provides that the authority to whom you report will notify your commander. If that is not possible, request the nearest Air Force base military personnel flight to contact HQ AFPC/DPMARS or DPMRPP2 by the fastest means available. Provide your name, rank, SSN, organization, and the circumstances of your release; further instructions will then be given to you.

(SIGNATURE ELEMENT)

§ 884.18 Civilian Authority's acknowledgment of Transfer of Custody and Agreement to Notify Member's Commander.

1. A warrant for the arrest of (name, rank, and SSN), hereinafter referred to as the "member," and who is charged with (offenses) has been issued by (civilian

authority) and in execution thereof, I accept (name) in my custody.

2. In consideration of the delivery of (name) to (location) for trial upon the above charges, I understand the authority vested in me as (position) of (agency) to agree to the following:

a. The commander (name, rank, unit, telephone), will be advised of the disposition of the charges.

b. The member will be immediately returned to the custody of the military upon acquittal, or if acquitted; or upon satisfying the sentence imposed, if convicted; or upon other disposition of the case.

c. The member's return will be to (location) or to such other place as may be designated by the Department of the Air Force.

d. The member's return will not be required if the member's commander has indicated that return is not appropriate. Instead of actual delivery, transportation for the member may be arranged so long as it is without expense to the United States or to the member.

4. Pending disposition of the charges, the member will remain in the custody of (name of agency and location) unless released on bail or the member's own recognizance, in which event (Air Force unit, activity, or recruiting office nearest place of trial) will be notified.

(SIGNATURE ELEMENT)

Janet A. Long,

Air Force Federal Register Liaison Officer
[FR Doc. 99-12738 Filed 5-28-99; 8:45 am]
BILLING CODE 5001-05-U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NM-9-1-5214b; FRL-6350-2]

Approval and Promulgation of Implementation Plans; State of New Mexico and County of Bernalillo, New Mexico; State Boards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State Implementation Plan (SIP) revisions for Board composition and conflict of interest disclosure requirements submitted both by the State of New Mexico and by Albuquerque/Bernalillo County, NM. The SIP revisions were submitted by the County and the State to satisfy the Federal mandate, found in section 128 of the Clean Air Act (Act), and in response to a SIP call letter to the Governor of New Mexico dated July 19, 1989, requiring a cure to identified SIP deficiencies concerning State Boards.

The revisions were submitted by the Governor to EPA on April 20 and July

⁶ See, for example, 1 in § 884.1.

16, 1990, for the State portion, and on November 16, 1990, for the Albuquerque/Bernalillo County portion. Supplemental information was submitted for Albuquerque/Bernalillo County on December 18, 1990, October 21, 1991, and November 22, 1991. These revisions correct deficiencies for the New Mexico Environmental Improvement Board and the Albuquerque/Bernalillo County Air Quality Board in order to comply with section 128 of the Act. The EPA approval of these New Mexico SIP revisions would make the revisions federally enforceable.

In the "Rules and Regulations" section of this Federal Register, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. The rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn, and all public comments received during the 30-day comment period set forth below will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received in writing by July 1, 1999.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas Diggs, Chief, Air Planning Section, at the EPA Region 6 Office listed below. Reference Docket Number: File Code SIP 1-3-10: NM-90-05. Copies of the documents relevant to this proposed rule are available for public inspection during normal business hours at the following locations. Anyone wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

Environmental Protection Agency, Region 6, Air Planning Section (6PD-L), Multimedia Planning and Permitting Division, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733.

New Mexico Environment Department, Air Quality Bureau, 1190 St. Frances Drive, Room So. 2100, Santa Fe, New Mexico 87503.

FOR FURTHER INFORMATION CONTACT: Dr. John Crocker, P.E., of the EPA Region 6 Air Planning Section at the above address, telephone (214) 665-7596.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final action of the same title which is published in the Rules and Regulations section of this Federal Register.

Authority: 42 U.S.C. 7401 et seq.

Dated: April 26, 1999

Jerry Clifford,

Acting Regional Administrator

FR Doc. 99-13380 Filed 5/28/99; 4:33 pm

BILLING CODE 6560-50-U

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3100, 3110, 3120, 3130, 3140, 3150, 3160, 3170, and 3180

[WO-310-1310-00-2I-IP]

RIN 1004-AC94

Onshore Oil and Gas Leasing and Operations

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rule; notice of extension of public comment period.

SUMMARY: The Bureau of Land Management (BLM) is extending the public comment period on a Notice of Proposed Rule, published in the *Federal Register* on December 3, 1998 (63 FR 66840). On March 26, 1999, BLM extended the comment period for 60 days (64 FR 14666). The proposed rule would revise BLM's oil and gas leasing and operations regulations. The rule uses performance standards in certain instances in lieu of the current prescriptive requirements. It would also cite industry standards and incorporate them by reference rather than repeat those standards in the rule itself. Also, BLM's onshore orders and national notices to lessees would be incorporated into the regulations to eliminate overlap with existing regulations. The rule would increase certain minimum bond amounts and would revise and replace BLM's current unitization regulations with a more flexible unit agreement process. Finally, the proposed rule would eliminate redundancies, clarify procedures and regulatory requirements, and streamline processes. In response to public requests for additional time, BLM extends the comment period 45 days from the comment period closing date of June 4, 1999, to the extended comment period's closing date of July 19, 1999.

DATES: Comments. Send your comments to BLM on or before July 19, 1999. BLM will consider comments received or postmarked on or before this date in preparing the final rule.

ADDRESSES: Please send your comments to the Bureau of Land Management Administrative Record, Room 401 LS, 1849 C Street, NW., Washington, DC 20240, or hand deliver comments to the Bureau of Land Management Administrative Record, Room 401, 1620 L Street, NW., Washington DC. For information about filing comments electronically, see the **SUPPLEMENTARY INFORMATION** section under "Electronic access and filing address."

FOR FURTHER INFORMATION CONTACT: John Duletsky of BLM's Fluid Minerals Group at (202) 452-0337 or Ian J. Senio of BLM's Regulatory Affairs Group at (202) 452-5049. If you require a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service at 1-800-877-8339 between 8 a.m. and 4 p.m. Eastern time, Monday through Friday, excluding Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing Address

You can view an electronic version of this proposed rule at BLM's Internet home page: www.blm.gov. You can also comment via the Internet at: WOCComment@wo.blm.gov. Please include "Attention: AC94" and your name and return address in your Internet message. If you do not receive a confirmation from our system that we have received your Internet message, contact us directly at (202) 452-5030.

Written Comments

Written comments on the proposed rule are most helpful if you:

- (A) Are specific;
- (B) Confine comments to issues pertinent to the proposed rule;
- (C) Explain the reason for any recommended change; and
- (D) Reference the specific section or paragraph of the proposal you are addressing.

We welcome suggested regulatory language.

BLM may not necessarily consider or include in the Administrative Record for the final rule comments which BLM receives after the close of the comment period (See **DATES**) or comments delivered to an address other than those listed above (See **ADDRESSES**).

You can review comments, including names, street addresses, and other contact information of respondents at this address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday, except Federal holidays. If you are an individual respondent you may request confidentiality. If you request that BLM consider withholding your name, street address, and other

contact information (such as Internet address, FAX or phone number) from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comment. BLM will honor requests for confidentiality on a case-by-case basis to the extent allowed by law. BLM will make available for public inspection in their entirety all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses.

Dated: May 26, 1999.

Sylvia V. Baca,

Assistant Secretary, Land and Minerals Management

[FR Doc. 99-13850 Filed 5-28-99; 8:45 am]

BILLING CODE 4310-84-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 050399A]

RIN 0648-AL27

Fisheries of the Northeastern United States; Amendment 12 to the Northeast Multispecies Fishery Management Plan; Measures to Address the Sustainable Fisheries Act Requirements

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of an amendment to a fishery management plan; request for comments.

SUMMARY: NMFS announces that the New England Fishery Management Council (Council) has submitted Amendment 12 to the Northeast Multispecies Fishery Management Plan (Amendment 12) for Secretarial review and is requesting comments from the public. Amendment 12 proposes to address the management of silver hake (whiting), red hake, offshore hake, and ocean pout through management measures, including a moratorium on commercial permits to fish for these species, Cultivator Shoal Whiting Fishery restrictions, differential whiting possession limits based on the mesh size with which a vessel chooses to fish in areas outside of the Cultivator Shoal Whiting Fishery, limitations on transfers at sea, and a year 4 default measure to ensure that overfishing is ended. The

intended effect of this action is to reduce fishing mortality rates on whiting and red hake to eliminate overfishing and rebuild the biomass in order to meet the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), as amended by the Sustainable Fisheries Act of October 1996 (SFA).

DATES: Comments must be received on or before August 2, 1999.

ADDRESSES: Comments on this amendment should be sent to Jon C. Rittgers, Acting Regional Administrator, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope, "Comments on Amendment 12."

Copies of Amendment 12, its regulatory impact review, initial regulatory flexibility analysis, the final supplemental environmental impact statement, and the supporting documents for Amendment 12 are available from Paul J. Howard, Executive Director, New England Fishery Management Council, 5 Broadway, Saugus, MA 01906-1036.

FOR FURTHER INFORMATION CONTACT: Peter Christopher, Fishery Management Specialist, 978-281-9288.

SUPPLEMENTARY INFORMATION: In September 1997, NMFS' report to Congress on the "Status of Fisheries of the United States" concluded that red hake and the southern stock of whiting are overfished and the northern stock of whiting is approaching an overfished condition. In response, the Council began the development of the Whiting Amendment (now Amendment 12) to specifically address overfishing.

Amendment 12 proposes to do the following: (1) Establish new overfishing definitions for two stocks of silver hake, two stocks of red hake, and offshore hake (*Merluccius albidus*); (2) specify optimum yield (OY) for silver hake, offshore hake, and red hake; (3) identify whiting, red hake, and offshore hake as small-mesh multispecies; (4) identify geographic areas for potential use in management of different stocks of whiting; (5) implement a moratorium on commercial permits to fish for small-mesh multispecies; (6) implement an open access permit category to allow an incidental catch for 100 lb (45.36 kg) combined of small-mesh multispecies (whiting, red hake, offshore hake), and unlimited amounts of ocean pout; (7) implement a 30,000 lb (13,608 kg) whiting/offshore hake possession limit for vessels fishing in the Cultivator Shoal Whiting Fishery (the current 3-inch (76 mm) minimum mesh requirement will remain the same); (8)

initiate management measures for all areas excluding the Cultivator Shoal Whiting Fishery based on mesh size/possession limit categories (vessels electing to use mesh smaller than 2.5-inches (64 mm) are allowed to possess/land combined whiting and offshore hake up to 3,500 lb (1,588 kg); vessels electing to use a minimum 2.5-inch (64 mm) mesh are allowed to possess/land combined whiting and offshore hake up to 7,500 lb (3,402 kg); and vessels electing to use a minimum 3-inch (76 mm) mesh are allowed to possess/land combined whiting and offshore hake up to 35,000 lb (13,608 kg); (9) add measures that may be implemented by a framework adjustment, including essential fish habitat (EFH) designation measures (these new framework measures would include a whiting quota for vessels fishing in the northern management area with mesh smaller than the minimum mesh in combination with a separator trawl/grate; modifications or adjustments to whiting grate/mesh configuration requirements; adjustments to whiting stock boundaries for management purposes; modifications to requirements for fisheries exempt from the minimum mesh requirements for small-mesh multispecies; and seasonal adjustments, declarations, and participating requirements for the Cultivator Shoal Whiting fishery); (10) implement codend specifications and restrictions on net strengtheners (a net strengthener may not be used to fish for small-mesh multispecies with either a minimum 2.5-inch (64 mm) or 3-inch (76 mm) mesh, but a vessel that chooses to fish for small-mesh multispecies with a mesh less than 2.5-inches (64 mm) may use a net strengthener, provided the vessel complies with the net strengthener provisions specified in other small-mesh fisheries); (11) restrict the transfer at sea of small-mesh multispecies; (12) provide a default measure to be applied on a stock specific basis, beginning in year 4 of the amendment if other measures have not been implemented to meet the fishing mortality objectives (this default measure would establish a Regulated Mesh Area with a 3-inch (76 mm) minimum mesh requirement for all fishing activities); (13) designate EFH for offshore hake; and (14) establish a Whiting Monitoring Committee (WMC). Ocean pout will remain an open access multispecies; none of the management measures proposed in this amendment address fishing for ocean pout.

The most recent estimates indicate that fishing mortality in whiting is approximately 1.79 for the northern

stock and 1.50 for the southern stock. The goal of the Amendment 12, with respect to whiting, is to reduce fishing mortality to 0.36 and 0.34 for the northern and southern stocks, respectively, based on existing overfishing definitions, translating into a 63-percent reduction of exploitation on both stocks of whiting. While there would be no proposed possession limits for red hake, it is expected that reductions of fishing mortality on whiting and offshore hake will have a corresponding reduction in fishing mortality on red hake. The establishment of a WMC has been proposed to monitor annually the progress of the management program and to recommend adjustments, as necessary, to ensure that Amendment 12 meets its objectives.

This amendment is intended to bring the whiting fisheries of the Northeast Multispecies FMP into compliance with the Magnuson-Stevens Act, as amended by the SFA. The provisions in section 108(a) of the SFA require that fishery management councils either add to or revise the required provisions of any fishery management plan prepared by a council or the Secretary of Commerce to include the following provisions: (1) Bycatch reports (standardize reporting methods to assess the type and amount of bycatch in a fishery); (2) bycatch measures (develop management measures to minimize bycatch and mortality of bycatch); (3) commercial, recreational, and charter fishing sectors (specify data for each sector); (4) EFH (describe and identify EFH, minimize to the extent practicable adverse impacts from fishing, and identify other actions to encourage the conservation of such habitat); (5) fishing communities (assess in a fishery impact statement the likely effects of measures on fishing communities); and (6) overfishing definitions (specify objective and measurable criteria for identifying whether a fishery is overfished, and include measures to prevent overfishing). Public comment is invited on the adequacy of Amendment 12 in meeting the requirements of section 108(a) of the SFA.

Measure Considered for Disapproval

While Amendment 12 includes a limited access permit program to control effort on small-mesh multispecies, NMFS is concerned that the provision may be inconsistent with national standard 4 and section 304(e) of the Magnuson-Stevens Act. Vessels that participated in either the Gulf of Maine whiting raised footrope or separator trawl experimental fisheries would qualify for the limited access program

with 1,000 lb (453.6 kg) of landings over 3 years, whereas other vessels would qualify with 50,000 lb (22,680 kg) of landings over 18 years. Vessels would be subject to the same restrictions regardless of how they qualified for the permit. Further, vessels may have been excluded from participation in experimental fisheries because NMFS imposed participation restrictions, and fishermen may have been reluctant to participate in the experimental fisheries because of the restrictive participation requirements. This portion of the proposed limited access program may be inconsistent with national standard 4 because different sectors of the industry could qualify for access to the fishery with different landings requirements. These issues raise concerns about fairness and equity that are the subject of national standard 4.

The limited access program also proposes that 5 years from the implementation date of this amendment (at the beginning of year 6), unless otherwise extended, vessels would be eligible for limited access small-mesh multispecies permits without having to meet the landings criteria, provided the vessels possessed a valid limited access multispecies permit on the date the final rule for this amendment is published, as well as 5 years from the effective date for this rule. There has been no analysis of the potential effects of increased effort on the rebuilding schedule. Amendment 12 proposes to end overfishing in year 4 and to rebuild the stocks of whiting and red hake within 10 years. It is not certain that the fishery could sustain additional vessel participation just 1 year beyond the target date to end overfishing; rebuilding goals may be compromised. This measure may be inconsistent with section 304(e) of the Magnuson-Stevens Act, which specifies that overfished fisheries must be rebuilt as soon as possible and within a period not to exceed 10 years, unless limited exceptions apply.

Overfishing Definition

Fishing mortality and exploitation reduction targets and the management measures proposed in Amendment 12 to achieve them would be based on the existing overfishing definitions, rather than on the overfishing definitions proposed in the amendment. Future evaluations of the status of the fishery would be based on the proposed definitions, should Amendment 12 be approved.

This amendment would introduce an overfishing definition for offshore hake and would revise the overfishing definitions for northern and southern

stocks of whiting and red hake to bring them into accord with the new national standard guidelines of the Magnuson-Stevens Act, as amended by the SFA. Under the revised guidelines, overfishing definitions must be composed of two reference points, one for fishing mortality rate and one for stock biomass. "Overfishing" occurs whenever a stock or stock complex is subjected to a rate or level of fishing mortality that jeopardizes the capacity of a stock or stock complex to produce maximum sustainable yield on a continuing basis. "Overfished" describes a stock or stock complex with a sufficiently low biomass to require a change in management practices to achieve the appropriate level and rate of stock rebuilding.

Essential Fish Habitat

The Council's omnibus EFH amendment, which included Amendment 11 to the Multispecies FMP, was approved in its entirety on March 3, 1999, and contained EFH designations for whiting and red hake. Offshore hake would be a newly managed species under Amendment 12; therefore, Amendment 12 includes an EFH designation for offshore hake. Under the SFA, these designations are part of the Council's on-going work to identify and describe EFH, describe non-fishing and fishing threats, and suggest conservation and enhancement measures.

A proposed rule that would implement Amendment 12 may be published in the *Federal Register* for public comment following NMFS' evaluation of the proposed rule under the procedures of the Magnuson-Stevens Act. Public comments on the proposed rule must be received by the end of the comment period on Amendment 12 to be considered in the approval/disapproval decision on Amendment 12. All comments received by August 2, 1999, whether specifically directed to the FMP amendment or to the proposed rule, will be considered in the approval/disapproval decision. Comments received after that date will not be considered in the approval/disapproval decision on Amendment 12.

Authority: 16 U.S.C. 1801 *et seq*

Dated: May 26, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service
[FR Doc. 99-13828 Filed 5-28-99; 8:45 am]
BILLING CODE 3510-22-F

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Opportunity To Comment on the Applicants for the Hastings (NE) and Missouri Areas

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA).

ACTION: Notice.

SUMMARY: GIPSA requests comments on the applicants for designation to provide official services in the geographic areas assigned to Hastings Grain Inspection, Inc. (Hastings) and the Missouri Department of Agriculture (Missouri). **DATES:** Comments must be postmarked, or sent by telecopier (FAX) by June 30, 1999.

ADDRESSES: Comments must be submitted in writing to USDA, GIPSA, Janet M. Hart, Chief, Review Branch, Compliance Division, STOP 3604, Room 1647-S, 1400 Independence Avenue, SW, Washington, DC 20250-3604. Telecopier (FAX) users may send comments to the automatic telecopier machine at 202-690-2755, attention: Janet M. Hart. All comments received will be made available for public inspection at the above address at 1400 Independence Avenue, SW, during regular business hours.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart, telephone 202-720-8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the April 1, 1999, *Federal Register* (64 FR 15724), GIPSA asked persons interested in providing official services in the Hastings and Missouri areas to submit an application for designation. There were two applicants for the

Hastings area: Hastings and Kansas Grain Inspection Service, Inc. (Kansas). Hastings applied for designation to provide official services in the entire area currently assigned to them. Kansas, a designated official grain inspection agency operating in Kansas, Colorado, and Wyoming, applied for designation to provide official services in the western portion of the Hastings area: Bounded on the North by the Nebraska-South Dakota State line east to the mountain-central time zone line;

Bounded on the East by the mountain-central time zone line south to the Nebraska-Kansas State line;

Bounded on the South by the Nebraska-Kansas State line west to the Nebraska-Colorado State line; and Bounded on the West by the Nebraska-Colorado and Nebraska-Wyoming State lines north to the Nebraska-South Dakota State line.

There were three applicants for the Missouri area: Missouri, Kansas, and North Dakota Grain Inspection Services, Inc. (North Dakota). Missouri applied for designation to provide official services in the entire area currently assigned to them. Kansas applied for designation to provide official services in the western portion of the Missouri area: Bounded on the North by the Missouri-Iowa State line east to Highway 65;

Bounded on the East by Highway 65 south to the Missouri-Arkansas State line;

Bounded on the South by the Missouri-Arkansas State line west to the Missouri-Kansas State line; and

Bounded on the West by the Missouri-Kansas State line north to the Missouri-Iowa State line.

North Dakota, a designated official grain inspection agency operating in Illinois as Illinois Official Grain Inspection, applied for the eastern portion of the Missouri area: Bounded on the North by the Missouri-Iowa State line from Highway 65 east to the Missouri-Illinois State line;

Bounded on the East by the Missouri-Illinois State line south to the Missouri-Kentucky State line, the Missouri-Kentucky State line south to the Missouri-Tennessee State line, the Missouri-Tennessee State line south to the Missouri-Arkansas State line;

Bounded on the South by the Missouri-Arkansas State line west to Highway 65; and

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Bounded on the West by Highway 65 north to the Missouri-Iowa State line.

GIPSA is publishing this notice to provide interested persons the opportunity to present comments concerning the applicants. Commenters are encouraged to submit reasons and pertinent data for support or objection to the designation of the applicants. All comments must be submitted to the Compliance Division at the above address. Comments and other available information will be considered in making a final decision. GIPSA will publish notice of the final decision in the *Federal Register*, and GIPSA will send the applicants written notification of the decision.

Authority: Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

Dated: May 17, 1999.

Neil E. Porter,

Director, Compliance Division.

[FR Doc. 99-13587 Filed 5-28-99; 8:45 am]

BILLING CODE 3410-EN-P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Designations for the Georgia, Schneider (IN), Central Iowa (IA), Montana, Mid-Iowa (IA), and Oregon Areas

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA), USDA.

ACTION: Notice.

SUMMARY: GIPSA announces designation of the following organizations to provide official services under the United States Grain Standards Act, as amended (Act):

Georgia Department of Agriculture (Georgia);
Schneider Inspection Service, Inc. (Schneider);
Central Iowa Grain Inspection Service, Inc. (Central Iowa);
Montana Department of Agriculture (Montana);
Mid-Iowa Grain Inspection, Inc. (Mid-Iowa); and
Oregon Department of Agriculture (Oregon).

EFFECTIVE DATES: August 1, 1999, for Georgia and Schneider, September 1, 1999, for Central Iowa and Montana.

and October 19, 1999, for Mid-Iowa and Oregon

ADDRESSES: USDA, GIPSA, Janet M. Hart, Chief, Review Branch, Compliance Division, STOP 3604, Room 1647-S, 1400 Independence Avenue, SW, Washington, DC 20250-3604

FOR FURTHER INFORMATION CONTACT: Janet M. Hart, at 202-720-8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Department Regulation 1512-1; therefore, the Executive Order and

Departmental Regulation do not apply to this action.

In the January 4, 1999, **Federal Register** (64 FR 73), GIPSA asked persons interested in providing official services in the geographic areas assigned to Georgia, Schneider, Central Iowa, Montana, Mid-Iowa, and Oregon to submit an application for designation. Applications were due by February 2, 1999. Georgia, Schneider, Central Iowa, Montana, Mid-Iowa, and Oregon, the only applicants, each applied for designation to provide official services in the entire area currently assigned to them

Since Georgia, Schneider, Central Iowa, Montana, Mid-Iowa, and Oregon were the only applicants, GIPSA did not ask for comments on them.

GIPSA evaluated all available information regarding the designation criteria in section 7(f)(1)(A) of the Act and, according to section 7(f)(1)(B), determined that Georgia, Schneider, Central Iowa, Montana, Mid-Iowa, and Oregon are able to provide official services in the geographic areas for which they applied.

The following organizations are designated to provide official services in the geographic areas specified in January 4, 1999, **Federal Register**.

Official agency	Designation start	Designation end	Telephone
Georgia	08/01/1999	06/30/2002	912-386-3130
Schneider	08/01/1999	06/30/2002	219-992-2306
Central Iowa	09/01/1999	06/30/2002	515-266-1101
Montana	09/01/1999	06/30/2002	406-452-9561
Mid-Iowa	10/01/1999	06/30/2002	319-363-0239
Oregon	10/01/1999	06/30/2002	541-276-0939

Interested persons may obtain official services by calling the telephone numbers listed above.

Authority: Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 2201 et seq.)

Dated: May 11, 1999

Neil E. Porter,

Director, Compliance Division

IFR Doc. 99-13588 Filed 5-28-99; 8:45 am

BILLING CODE 3410-EN-M

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Extend and Revise a Currently Approved Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. No. 104-13) and Office of Management and Budget (OMB) regulations at 5 CFR Part 1320 (60 FR 44978, August 29, 1995), this notice announces the National Agricultural Statistics Service's (NASS) intention to request an extension for and revision to a currently approved information collection, the Vegetable Survey Program.

DATES: Comments on this notice must be received by August 5, 1999 to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS:

Contact Rich Allen, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, 1400 Independence Avenue SW, Room 4117 South Building, Washington, DC 20250-2000, (202) 720-4333.

SUPPLEMENTARY INFORMATION:

Title: Vegetable Survey Program.

OMB Number: 0535-0037

Expiration Date of Approval:

December 31, 1999.

Type of Request: Intent to extend and revise a currently approved information collection.

Abstract: The primary objective of the National Agricultural Statistics Service is to prepare and issue State and national estimates of crop and livestock production. The Vegetable Survey Program obtains basic agricultural statistics for fresh market and processing vegetables in major producing States. The fresh market estimating program consists of 25 selected crops and the processing program consists of 10 principal crops. Vegetable statistics are used by the U.S. Department of Agriculture to help administer programs and by growers, processors, and marketers in making production and marketing decisions. These data are collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985, 7 U.S.C. 2276, which requires USDA to avoid strict confidentiality to

non-aggregated data provided by respondents.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 9 minutes per response.

Respondents: Farms and businesses.

Estimated Number of Respondents: 18,000.

Estimated Total Annual Burden on Respondents: 2,700 hours.

Copies of this information collection and related instructions can be obtained without charge from Larry Gambrell, the Agency OMB Clearance Officer, at (202) 720-5778.

Comments Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (3) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: Larry Gambrell, Agency OMB Clearance Officer, U.S. Department of Agriculture, 1400 Independence Avenue SW, Room

4162 South Building, Washington, DC 20250-2000.

All responses to this notice will be summarized and included in the request for OMB approval.

All comments will also become a matter of public record.

Signed at Washington, DC, April 22, 1999.

Rich Allen,

Acting Administrator, National Agricultural Statistics Service.

[FR Doc. 99-13714 Filed 5-28-99; 8:45 am]

BILLING CODE 3410-20-M

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Five-Year Review of Antidumping and Countervailing Duty Orders

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation of five-year ("sunset") reviews.

SUMMARY: In accordance with section 751(c) of the Tariff Act of 1930, as amended ("the Act"), the Department of Commerce ("the Department") is automatically initiating five-year ("sunset") reviews of the antidumping and countervailing duty orders or suspended investigations listed below. The International Trade Commission ("the Commission") is publishing concurrently with this notice its notices

of *Institution of Five-Year Reviews* covering these same orders.

FOR FURTHER INFORMATION CONTACT: Melissa G. Skinner, Scott E. Smith, or Martha V. Douthitt, Office of Policy, Import Administration, International Trade Administration, U.S. Department of Commerce, at (202) 482-1560, (202) 482-6397 or (202) 482-3207, respectively, or Vera Libeau, Office of Investigations, U.S. International Trade Commission, at (202) 205-3176.

SUPPLEMENTARY INFORMATION:

Initiation of Reviews

In accordance with 19 CFR 351.218 (see *Procedures for Conducting Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998)), we are initiating sunset reviews of the following antidumping and countervailing duty orders or suspended investigations:

DOC case No.	ITC case No.	Country	Product
A-428-802	A-419	Germany	Industrial Belts Except Synchronous & V Belts
A-475-802	A-413	Italy	Synchronous and V-Belts.
A-588-807	A-414	Japan	Industrial Belts.
A-559-802	A-415	Singapore	V-Belts.
A-427-009	A-96	France	Industrial Nitrocellulose.
A-351-804	A-439	Brazil	Industrial Nitrocellulose.
A-570-802	A-441	China, PR	Industrial Nitrocellulose.
A-428-803	A-444	Germany	Industrial Nitrocellulose.
A-588-812	A-440	Japan	Industrial Nitrocellulose.
A-580-805	A-442	Korea (South)	Industrial Nitrocellulose.
A-412-803	A-443	United Kingdom	Industrial Nitrocellulose.
A-479-801	A-445	Yugoslavia	Industrial Nitrocellulose.
A-122-804	A-422	Canada	Steel Rail.
C-122-805	C-297	Canada	Steel Rail.
A-588-811	A-432	Japan	Drafting Machines.
A-588-809	A-426	Japan	Small Business Telephone Systems.
A-583-806	A-428	Taiwan	Small Business Telephone Systems.
A-580-803	A-427	Korea (South)	Small Business Telephone Systems.
A-588-810	A-429	Japan	Mechanical Transfer Presses.
A-588-813	A-455	Japan	Multiangle Laser Light Scattering Instruments.
A-588-816	A-462	Japan	Benzyl Paraben.

Statute and Regulations

Pursuant to sections 751(c) and 752 of the Act, an antidumping ("AD") or countervailing duty ("CVD") order will be revoked, or the suspended investigation will be terminated, unless revocation or termination would be likely to lead to continuation or recurrence of (1) dumping or a countervailable subsidy, and (2) material injury to the domestic industry.

The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) ("Sunset Regulations"). Guidance on methodological or analytical issues

relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*; Policy Bulletin, 63 FR 18871 (April 16, 1998) ("Sunset Policy Bulletin").

Filing Information

As a courtesy, we are making information related to sunset proceedings, including copies of the *Sunset Regulations* and *Sunset Policy Bulletin*, the Department's schedule of sunset reviews, case history information (e.g., previous margins, duty absorption determinations, scope language, import

volumes), and service lists, available to the public on the Department's sunset internet website at the following address: "http://www.ita.doc.gov/import_admin/records/sunset/".

All submissions in the sunset review must be filed in accordance with the Department's regulations regarding format, translation, service, and certification of documents. These rules can be found at 19 CFR 351.303 (1998). Also, we suggest that parties check the Department's sunset website for any updates to the service list before filing any submissions. The Department will make additions to and/or deletions from the service list provided on the sunset website based on notifications from parties and participation in this review.

Specifically, the Department will delete from the service list all parties that do not submit a substantive response to the notice of initiation.

Because deadlines in a sunset review are, in many instances, very short, we urge interested parties to apply for access to proprietary information under administrative protective order ("APO") immediately following publication in the **Federal Register** of the notice of initiation of the sunset review. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304-306 (see *Antidumping and Countervailing Duty Proceedings: Administrative Protective Order Procedures: Procedures for Imposing Sanctions for Violation of a Protective Order*, 63 FR 24391 (May 4, 1998)).

Information Required From Interested Parties

Domestic interested parties (defined in 19 CFR 351.102 (1998)) wishing to participate in the sunset review must respond not later than 15 days after the date of publication in the **Federal Register** of the notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth in the *Sunset Regulations* at 19 CFR 351.218(d)(1)(ii). We note that the Department considers each of the orders listed above as separate and distinct orders and, therefore, requires order-specific submissions. In accordance with the *Sunset Regulations*, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the order without further review.

If we receive an order-specific notice of intent to participate from a domestic interested party, the *Sunset Regulations* provide that all parties wishing to participate in the sunset review must file substantive responses not later than 30 days after the date of publication in the **Federal Register** of the notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth in the *Sunset Regulations* at 19 CFR 351.218(d)(3). Note that certain information requirements differ for foreign and domestic parties. Also, note that the Department's information requirements are distinct from the International Trade Commission's information requirements. Please consult the *Sunset Regulations* for information regarding the Department's conduct of sunset

reviews.¹ Please consult the Department's regulations at 19 CFR part 351 (1998) for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

Dated: May 26, 1999

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration

[FR Doc. 99-13838 Filed 5-28-99; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-201-504]

Porcelain-on-Steel Cookware From Mexico: Amended Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: June 1, 1999.

FOR FURTHER INFORMATION CONTACT:

Katherine Johnson or David J. Goldberger, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone, (202) 482-4929 or (202) 482-4136, respectively.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR part 351 (1998).

Scope of the Review

Imports covered by this review are shipments of porcelain-on-steel cookware, including tea kettles, which do not have self-contained electric heating elements. All of the foregoing are constructed of steel and are

¹ A number of parties commented that these interim-final regulations provided insufficient time for rebuttals to substantive responses to a notice of initiation (*Sunset Regulations*, 19 CFR 351.218(d)(4)). As provided in 19 CFR 351.302(b) (1998), the Department will consider individual requests for extension of that five-day deadline based upon a showing of good cause.

enameled or glazed with vitreous glasses. This merchandise is currently classifiable under *Harmonized Tariff Schedule of the United States* (HTSUS) subheading 7323.94.00. Kitchenware currently classifiable under HTSUS subheading 7323.94.00.30 is not subject to the order. Although the HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of this proceeding is dispositive.

Amendment to Final Results

In accordance with section 751(a) of the Act, on May 18, 1999, the Department published the final results of the 1996-1997 eleventh administrative review on porcelain-on-steel cookware from Mexico, in which we determined that sales of porcelain-on-steel cookware from Mexico were made at less than normal value (64 FR 26934). On May 17, 1999, we received allegations, timely filed pursuant to 19 CFR 351.224(c)(2), from the petitioner Columbian Home Products, LLC that the Department made two ministerial errors in its final results. We did not receive ministerial error allegations from Cinsa, S.A. de C.V. (Cinsa) or Esmaltaciones de Norte America, S.A. de C.V. (ENASA). However, on May 20, 1999, Cinsa and ENASA alleged that the petitioner's ministerial error allegations exceeded the limited scope of the corrections authorized by the Department's regulations. Respondents also claim that the Department is barred from making the suggested corrections on the grounds that an appeal for review by a NAFTA panel has now been docketed with respect to this case. We disagree with respondents. The definition of a ministerial error provides not only for correction of errors in arithmetic but also for "any other similar type of unintentional error which the Secretary considers ministerial." 19 CFR 351.224(f). Furthermore, the Department does not lose jurisdiction for the purpose of correcting clerical errors with the filing of a Request for Panel Review.

After analyzing petitioner's submission, we have determined, in accordance with 19 CFR 351.224, that two ministerial errors were made in our final margin calculations for Cinsa and ENASA. Specifically, we failed to state our final determination of duty absorption, including the percentage of U.S. sales on which duty absorption occurred. Because the Department did not intend to avoid finalizing its statutorily-required determination with respect to duty absorption, failure to state our final determination in the **Federal Register** constitutes a

ministerial error within the meaning of the Department's regulations. We also inadvertently failed to deduct inventory carrying costs incurred in the United States from the total selling expenses used in the CEP profit calculation. For a detailed discussion of the ministerial error allegations and the Department's analysis, see the Memorandum to Louis Apple from the Team, dated May 21, 1999.

Duty Absorption

On February 18, 1998, petitioner requested that the Department determine whether antidumping duties had been absorbed by Cinsa and ENASA during the period of review (POR), pursuant to section 751(a)(4) of the Act. Section 751(a)(4) provides that the Department, if requested, will determine during an administrative review initiated two years or four years after publication of the order whether antidumping duties have been absorbed by a foreign producer or exporter subject to the order if the subject merchandise is sold in the United States through an importer who is affiliated with such foreign producer or exporter. Section 351.213(j)(2) of the Department's regulations provides that, for transition orders as defined in section 751(c)(6)(C) of the Act, i.e., orders in effect as of January 1, 1995, the Department will make a duty absorption determination upon request in administrative reviews initiated in 1996 and 1998. See *Antidumping Duties; Countervailing Duties: Final Rule*, 62 FR 27296, 27394 (May 19, 1997). This approach ensures that interested parties will have the opportunity to request a duty absorption determination prior to sunset reviews for entries for which the second and fourth years following an order have already passed. Because the order on porcelain-on-steel cookware from Mexico has been in effect since 1986, this is a transition order within the meaning of section 751(c)(6)(C) of the Act. Thus, as there has been a request for an absorption determination in this review (initiated in 1998), we are making a duty-absorption determination.

The statute provides for a determination on duty absorption with respect to subject merchandise that is sold in the United States through an affiliated importer. In this case, both Cinsa and ENASA made all of their sales of subject merchandise to the United States through an importer that is affiliated within the meaning of section 751(a)(4) of the Act. With respect to Cinsa, we have determined that there is a dumping margin on 68.03 percent of its U.S. sales during the POR.

For ENASA, we have determined that there is a dumping margin on 98.52 percent of its U.S. sales during the POR. In addition, for Cinsa's and ENASA's sales of subject merchandise, we cannot conclude from the record that the unaffiliated purchasers in the United States will pay the ultimately assessed duty. Under these circumstances, therefore, we find that antidumping duties have been absorbed by Cinsa on 68.03 percent of its U.S. sales of subject merchandise and by ENASA on 98.52 percent of its U.S. sales of subject merchandise.

CEP Profit Calculation

We also failed to deduct inventory carrying costs incurred in the United States from the total selling expenses used in the calculation of CEP profit. The Department's policy is to exclude all imputed expenses (i.e., credit expenses and inventory carrying costs) from the calculation of total actual profit for CEP sales of subject merchandise and sales of the foreign like product. See *Policy Bulletin 97.1: Calculation of Profit for Constructed Export Price Transactions*.

Therefore, in accordance with section 751(h) of the Act and 19 CFR 351.224(e), we are amending the final results of the 1996-1997 antidumping duty administrative review on porcelain-on-steel cookware from Mexico.

The revised weighted-average dumping margins are as follows:

Manufacturer/ exporter	Original final margin percentage	Revised final margin percentage
Cinsa	25.34	25.42
ENASA	65.23	65.28

This amended final results of administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)), section 777(i) of the Act (19 U.S.C. 1677f(i)), and 19 CFR 351.210(c).

Dated: May 25, 1999.

Robert S. LaRussa,
Assistant Secretary for Import
Administration.

[FR Doc. 99-13847 Filed 5-28-99; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

Quarterly Update to Annual Listing of Foreign Government Subsidies on Articles of Cheese Subject to an In-Quota Rate of Duty

AGENCY: Import Administration, International Trade Administration, Department of Commerce

ACTION: Publication of quarterly update to annual listing of foreign government subsidies on articles of cheese subject to an in-quota rate of duty.

SUMMARY: The Department of Commerce, in consultation with the Secretary of Agriculture, has prepared its quarterly update to the annual list of foreign government subsidies on articles of cheese subject to an in-quota rate of duty during the period January 1, 1999 through March 31, 1999. We are publishing the current listing of those subsidies that we have determined exist.

EFFECTIVE DATE: June 1, 1999.

FOR FURTHER INFORMATION CONTACT: Russell Morris or Tipten Troidl, Office of AD/CVD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW., Washington, DC 20230, telephone: (202) 482-2786.

SUPPLEMENTAL INFORMATION: Section 702(a) of the Trade Agreements Act of 1979 (as amended) (the Act) requires the Department of Commerce (the Department) to determine, in consultation with the Secretary of Agriculture, whether any foreign government is providing a subsidy with respect to any article of cheese subject to an in-quota rate of duty, as defined in section 702(g)(b)(4) of the Act, and to publish an annual list and quarterly updates of the type and amount of those subsidies. We hereby provide the Department's quarterly update of subsidies on cheeses that were imported during the period January 1, 1999 through March 31, 1999.

The Department has developed, in consultation with the Secretary of Agriculture, information on subsidies (as defined in section 702(g)(b)(2) of the Act) being provided either directly or indirectly by foreign governments on articles of cheese subject to an in-quota rate of duty. The appendix to this notice lists the country, the subsidy program or programs, and the gross and net amounts of each subsidy for which information is currently available.

The Department will incorporate additional programs which are found to constitute subsidies, and additional

information on the subsidy programs listed, as the information is developed.

The Department encourages any person having information on foreign government subsidy programs which benefit articles of cheese subject to an in-quota rate of duty to submit such

information in writing to the Assistant Secretary for Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230

This determination and notice are in accordance with section 702(a) of the Act.

Dated: May 25, 1999

Robert S. LaRussa
Assistant Secretary for Import Administration.

APPENDIX SUBSIDY PROGRAMS ON CHEESE SUBJECT TO AN IN-QUOTA RATE OF DUTY

Country	Program(s)	Gross ¹ subsidy \$/lb. 0.20	Net ² subsidy \$/lb. \$0.20
Austria	European Union Restitution Payments		
Belgium	EU Restitution Payments	0.07	0.07
Canada	Export Assistance on Certain Types of Cheese	0.24	0.24
Denmark	EU Restitution Payments	0.17	0.17
Finland	EU Restitution Payments	0.26	0.26
France	EU Restitution Payments	0.15	0.15
Germany	EU Restitution Payments	0.19	0.19
Greece	EU Restitution Payments	0.00	0.00
Ireland	EU Restitution Payments	0.10	0.10
Italy	EU Restitution Payments	0.13	0.13
Luxembourg	EU Restitution Payments	0.07	0.07
Netherlands	EU Restitution Payments	0.10	0.10
Norway	Indirect (Milk) Subsidy	0.34	0.34
	Consumer Subsidy	0.15	0.15
Total		0.49	0.49
Portugal	EU Restitution Payments	0.10	0.10
Spain	EU Restitution Payments	0.11	0.11
Switzerland	Deficiency Payments	0.26	0.26
U.K.	EU Restitution Payments	0.14	0.14

¹ Defined in 19 U.S.C. 1677(5)

² Defined in 19 U.S.C. 1677(6)

[FR Doc. 99-13848 Filed 5-28-99; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of revocation of Export Trade Certificate of Review No. 96-00004.

SUMMARY: The Secretary of Commerce issued an export trade certificate of review to The Foreign Market Search for U.S. Products and Services, Inc. doing business as FMS Exports-Imports, Inc. ("FMS"). Because this certificate holder has failed to file an annual report as required by law, the Secretary is revoking the certificate. This notice summarizes the notification letter sent to FMS.

FOR FURTHER INFORMATION CONTACT: Morton Schnabel, Director, Office of Export Trading Company Affairs, International Trade Administration. 202/482-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 ("the Act") (Pub. L. 97-290, 15 U.S.C. 4011-21) authorizes the Secretary of Commerce to issue export trade certificates of review. The regulations implementing Title III ("the Regulations") are found at 15 CFR part 325 (1999). Pursuant to this authority, a certificate of review was issued on September 10, 1996 to FMS.

A certificate holder is required by law to submit to the Department of Commerce annual reports that update financial and other information relating to business activities covered by its certificate (section 308 of the Act, 15 U.S.C. 4018, §§ 325.14 (a) of the Regulations, 15 CFR 325.14 (a)). The annual report is due within 45 days after the anniversary date of the issuance of the certificate of review (§§ 325.14 (b) of the Regulations, 15 CFR 325.14 (b)). Failure to submit a complete annual report may be the basis for revocation (§§ 325.10(a) and 325.14(c) of the Regulations, 15 CFR 325.10(a) (3) and 325.14(c)).

On August 31, 1998, the Department of Commerce sent to FMS a letter

containing annual report questions with a reminder that its annual report was due on October 25, 1998. Additional reminders were sent on November 13, 1998 and on February 10, 1999. The Department has received no written response from FMS to any of these letters.

On March 18, 1999, and in accordance with § 325.10 (c) (1) of the Regulations, (15 CFR 325.10 (c) (1)), the Department of Commerce sent a letter by certified mail to notify FMS that the Department was formally initiating the process to revoke its certificate for failure to file an annual report. In addition, a summary of this letter allowing FMS thirty days to respond was published in the **Federal Register** on March 24, 1999 at 64 FR 14214. Pursuant to § 325.10(c) (2) of the regulations (15 CFR 325.10(c) (2)), the Department considers the failure of FMS to respond to be an admission of the statements contained in the notification letter.

The Department has determined to revoke the certificate issued to FMS for its failure to file an annual report. The Department has sent a letter, dated May

26, 1999, to notify FMS of its determination. The revocation is effective thirty (30) days from the date of publication of this notice. Any person aggrieved by this decision may appeal to an appropriate U.S. district court within 30 days from the date on which this notice is published in the **Federal Register** (325.10(c) (4) and 325.11 of the regulations, 15 CFR 324.10(c) (4) and 325.11 of the regulations, 15 CFR 325.10(c) (4) and 325.11).

Dated: May 26, 1999.

Morton Schnabel,

Director, Office of Export Trading Company Affairs

[FR Doc. 99-13813 Filed 5-28-99; 8:45 am]

BILLING CODE 3510-DR-U

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of revocation of Export Trade Certificate of Review No. 84-00015.

SUMMARY: The Secretary of Commerce issued an export trade certificate of review to AEON International Corporation. Because this certificate holder has failed to file an annual report as required by law, the Secretary is revoking the certificate. This notice summarizes the notification letter sent to AEON International Corporation.

FOR FURTHER INFORMATION CONTACT: Morton Schnabel, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/482-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 ("the Act") (Pub. L. 97-290, 15 U.S.C. 4011-21) authorizes the Secretary of Commerce to issue export trade certificates of review. The regulations implementing Title III ("the Regulations") are found at 15 CFR part 325 (1996). Pursuant to this authority, a certificate of review was issued on July 16, 1984 to AEON International Corporation.

A certificate holder is required by law to submit to the Department of Commerce annual reports that update financial and other information relating to business activities covered by its certificate (section 308 of the Act, 15 U.S.C. 4018, § 235.14 (a) of the Regulations, 15 CFR 325.14 (a)). The annual report is due within 45 days after the anniversary date of the

issuance of the certificate of review (§ 325.14 (b) of the regulations, 15 CFR 325.14 (b)). Failure to submit a complete annual report may be the basis for revocation (§§ 325.10(a) and 325.14(c) of the Regulations, 15 CFR 325.10(a) (3) and 325.14(c)).

On July 6, 1998, the Department of Commerce sent to AEON International Corporation a letter containing annual report questions with a reminder that its annual report was due on August 30, 1999. Additional reminders were sent on September 15, 1998, and on October 13, 1998. The Department has received no written response from AEON International Corporation to any of these letters.

On December 10, 1998, in accordance with § 325.10 (c) (2) of the Regulations, a letter was sent by certified mail to notify AEON International Corporation that the Department was formally initiating the process to revoke its certificate for failure to file an annual report. A summary of that letter was published in the **Federal Register** (63 FR 69266) on December 16, 1999 allowing thirty days for a response.

Pursuant to 325.10(c) (2) of the regulations (15 CFR 325.10(c) (2)), the Department considers the failure of AEON International Corporation to respond to be an admission of the statements contained in the notification letter.

The Department has determined to revoke the certificate issued to Trust International Services Company, Inc. for its failure to file an annual report. The Department has sent a letter, dated April 29, to notify AEON International Corporation of its determination. The revocation is effective thirty (30) days from the date of publication of this notice. Any person aggrieved by this decision may appeal to an appropriate U.S. district court within 30 days from the date on which this notice is published in the **Federal Register** 325.10(c) (4) and 325.11 of the Regulations, 15 CFR 324.10(c) (4) and 325.11 of the Regulations, 15 CFR 325.10(c) (4) and 325.11.

Dated: May 25, 1999.

Morton Schnabel,

Director, Office of Export Trading Company Affairs

[FR Doc. 99-13814 Filed 5-28-99; 8:45 am]

BILLING CODE 3510-DR-U

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No. 990517136-9136-01]

RIN 0693-ZA30

Community Alliance for Math, Science and Technology Literacy (CASTL)

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Invitation for proposals to establish pilot programs partnering local school boards and businesses for enhanced professional development of K-12 math, science and technology teachers.

SUMMARY: This notice is to invite proposals from local educational agencies (LEAs) or non-profit organizations acting on their behalf to participate in the CASTL program. This pilot program will partner local school boards, non-profit educational organizations, and the local business community to develop and conduct innovative professional development activities for K-12 math, science and technology teachers. A community based effort will create new professional development activities to help increase teacher recruitment and retention, assist teachers in developing hands-on workplace-based math, science and technology curriculum, and increase communication between the educational and business enterprises. It is anticipated that ten awards will be made in fiscal year 1999 affecting teachers employed as of September 1999. Seed funding for the pilot program will focus on urban and rural statistical areas, and other areas identified as requiring special assistance in promoting math, science and technology education. Applications must be prepared by a partnership between the LEA and the business and/or research communities.

DATES: Applications must be received at the address below no later than 5 p.m., Eastern Standard Time on July 1, 1999, in order to be considered for the Fiscal Year 1999 awards. Late applications will be rejected and returned to the sender. Applications which have been provided to a delivery service will be accepted for review if the applicant can document that the application was provided to the delivery service by June 30, 1999, with delivery to the address listed below guaranteed prior to the closing date and time. Applications will not be accepted via facsimile machine transmission or electronic mail.

ADDRESSES: Applicants must submit one signed original plus two (2) copies of the proposal along with the required forms (Refer to "Application Forms" section) to: CASTL Program Coordinator: Division 109: National Institute of Standards and Technology, 100 Bureau Drive, Stop 1090: Gaithersburg, MD 20899-1090.

FOR FURTHER INFORMATION CONTACT: Dr. Jack Hsia, Program Coordinator, telephone (301) 975-3067, or e-mail jack.hsia@nist.gov

SUPPLEMENTARY INFORMATION:

Authority

This program is an implementation of section 7 of the Technology Administration Act of 1998 (Pub. L. 105-309), codified at section 19a of the NIST Act, as amended (15 USC 278g-2a). This statute authorizes the National Institute of Standards and Technology (NIST) to establish a teacher science and technology enhancement program to provide for the professional development of mathematics and science teachers of elementary, middle, and secondary schools, including providing for the improvement of these teachers with respect to the understanding of science and the impact of science on commerce. Under section 278g-2a(e), NIST may use means it deems appropriate to accomplish the goals of the program. The CASTL program accomplishes the statutory goals because it will allow K-12 teachers to experience firsthand how math, science, and technology impact commerce. This will both enhance teachers' professional development and enable teachers to incorporate these experiences into their math, science, and technology curricula. A community based effort will create new professional development activities to help increase teacher recruitment and retention, assist teachers in developing hands-on workplace-based math, science and technology curriculum, and increase communication between the educational and business enterprises, consistent with the statutory goals.

Program Description

The National Institute of Standards and Technology (NIST) wishes to initiate a pilot program partnering local school boards and businesses to foster high quality K-12 education through enhanced professional development of K-12 math, science and technology teachers. Together, the school board and the local businesses are expected to leverage their collected strengths to develop and implement a program to increase teachers' understanding of

math, science and technology and to assist them in development of innovative curriculum. Businesses will provide on-site opportunities for teachers to experience hands-on inquiry based learning and workplace based application of math, science and technology skills. This partnership is expected to commit to providing at least 4 years of support for the teachers. The pilot program is expected to complement existing reform and professional development activities.

Enhanced professional development is expected to increase the hiring and retention rates for math, science and technology teachers. Experiences in the workplace will provide opportunities for teachers to develop innovative teaching methods reflecting real-world experience of math, science and technology. As teachers develop a greater understanding and comfort with the foundations and applications of math and science, they are better able to pass along such an understanding to their students. Students are anticipated to graduate with an increased understanding about the application of and excitement for math and science, leading to an increase in the overall scientific literacy of society. Local businesses and the overall community are expected to benefit from students better prepared for jobs in the technology-based industries that contribute more than half the nation's economic growth.

Using a relatively small amount of federal seed money, local school board in ten pilot program sites will implement the pilot program. The pilot program will directly impact only a tiny fraction of the 15,000 independent school districts nationwide. However, these pilot programs are anticipated to provide models that can be adopted by communities and businesses nationwide. Successful demonstration and refinement of the pilot program will be followed by dissemination of the model across the nation, with relatively little additional federal funding required (local communities and businesses will assume the bulk of the expenses after successful demonstration of the pilot program). Thus a small federal investment is leveraged into substantial nationwide results.

Background Information

Advances in technology fuel at least one half of the economic growth of the U.S. and the industrialized nations, and this fraction is expected to continue to increase in the next century. However, industry and government leaders identify the shortage of employees with adequate science and mathematics

skills, at all levels, as a major impediment to continued national economic growth. International studies such as the recently reported Third International Mathematics and Science Study show U.S. K-12 students performing near the bottom of industrialized nations in tests of science and math knowledge. To maintain and improve U.S. economic competitiveness and provide opportunities for all citizens, the quality of science and math education in the United States must be significantly increased.

Improving science and math education is a complex problem requiring many different approaches. Many governmental and non-governmental organizations are each contributing towards the solution. The goal of this pilot program is to enhance the professional development of U.S. science and technology teachers through education-business partnership. It is expected that proper professional and financial support of science and math teachers will immediately increase successful recruitment and retention of qualified new science and math teachers, and will eventually lead to increases enrollment of teaching students specializing in science and math as the greater opportunities become known.

Business-Education Partnership

This pilot program will create a partnership between the local school board and the local business community to develop and implement enhanced professional development for K-12 math, science and technology teachers. Goals and outcomes of the pilot program should include the following elements:

- Increase teachers' understanding about the application of any excitement for math and science.
- Provide specialized professional development for K-12 math, science and technology teachers, aiming to reach needs of teachers of all grades.
- Increase teacher recruitment and/or retention rates.
- Integrate insight of the business/research community into new curriculum elements.
- Investigate creating an infrastructure for a sustainable program.
- Maximize atmosphere for teacher learning and creativity.

Local business partners may include industrial firms, corporations employing technology, research institutions and other organizations which can provide teachers experience with real-world based application of math, science and technology.

This pilot program may incorporate a range of activities depending on the

needs of the community. Funds are intended to supplement the work of the LEA, not the business or community partners. The objectives include:

- Collecting data regarding the needs of math, science, and technology teachers in the school district.
- Integrating several existing professional development programs into a single, coordinated effort.
- Providing staff time for teachers to develop and implement new curriculum changes resulting from pilot program and/or participate in cohort groups of pilot program participants.
- Coordinating with local technical and community colleges.
- Providing alternative certification activities for math, science and technology teachers, and
- Coordinating curriculum elements through grades K-12.

NIST expects each pilot program to directly involve at least 10 teachers in the pilot phase. However, with greater commitment from local businesses, more teachers may be involved. Participating local businesses, possibly through a central organization, will commit to working with the LEA for a minimum of four years. The businesses' contribution must provide teachers hands-on experience with workplace applications of math, science and technology. This exposure will assist teachers in gaining a better understanding of the business' science and technology skill needs and goals. From this experience, the teachers and administrators will work together to translate the experiences into more effective classroom lessons. Students will learn from real-world based examples, increasing their scientific inquiry skills and overall understanding of the use of math, science and technology.

NIST will evaluate the implementation of the pilot programs. Award recipients agree to participate in the evaluation of these pilot programs. This may involve a meeting among all recipients. Each pilot program coordinator is expected to track the progress of the teachers and their hiring and retention rates as part of the evaluation process. Applicants are encouraged to indicate additional evaluation activities they will perform.

Creating the Partnership

A unique feature of the pilot programs will be the ability of the partnership to tailor the pilot program to best fit local community and schools needs, and best make use of local resources. The 15,000 independent schools districts across the nation represent an enormous diversity in financial resources, student and

community demographics, types of local businesses, and other factors: from inner city urban districts, to affluent suburbs, to geographically extended rural and Indian reservation districts. Attempts at "one size fits all" programs rarely succeed in addressing such a diversity of needs and resources.

The support of locally selected program champions and businesses is vital to pilot program success. A partnership development team led by the local champion will guide and structure a community math and science education and workforce development plan. Team members will represent local school boards, businesses, teachers, students, the public, and other stakeholders who can identify and focus on local needs.

Both the school board and the business community will make commitments to the pilot program. Local school boards must commit to working collaboratively with the businesses. Staff must be allocated time for curriculum development to translate their experiences into classroom lessons and for instructing their colleagues about what they have learned. This time may occur during a summer program and/or as part of regularly scheduled professional development. School boards will integrate this pilot program into existing educational reform efforts. Businesses will commit to participating in the pilot program's development, implementation and support for multiple years. Employees will be allocated time to work with the teachers.

Several Federal departments and agencies have on-going research and programs in the areas of K-12 math, science and technology education. This pilot program will tie into these existing programs when possible, especially if a particular effort is underway in the community. Nationwide programs are being sponsored by the National Science Foundation, the U.S. Department of Education, and the U.S. Department of Labor, among other agencies. Contingent upon success of the pilot program and additional federal and private funding, the program may grow in future years.

Organizational Involvement

Participation by community and professional organizations heightens the level of community commitment to this pilot program. These organizations lend their resources, knowledge, and experience to the process and help facilitate the creation of partnerships. The partnership development team is encouraged to engage any and all community organizations that will add to the success of the pilot programs.

Funding Availability

Approximately \$200,000 will be available and it is anticipated that ten awards in the range of up to \$20,000 will be selected to pay the administrative cost for starting the program. The pilot program will be integrated into the community as a self-sustaining activity over time. Based on preliminary results and future NIST appropriations, NIST may provide additional support in future years.

Grant funds may be used only for direct costs of administering this pilot program. Such costs may include salary for one person, excluding benefits, by August 1, 1999 a detailed accounting of all funds is due to the NIST program office at the above address. Any additional costs, including indirect costs, are the responsibility of the educational and business partners.

Award Period

Funds will be awarded for a 12 month period.

Matching Requirements

Cost sharing and matching are not required under this pilot program.

Application Forms

Standard Form (SF) 424, Application for Financial Assistance, SF 424A, SF 424B, and CD-511 shall be used for applying for financial assistance. Awards resulting from this competition will be administered in accordance with 15 CFR part 14, "Uniform Administration Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, Other Non-Profit, and Commercial Organizations" or 15 CFR part 24, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," as applicable; OMB Circular A-21, "Cost Principles for Educational Institutions," or OMB Circular A-122, "Cost Principles for Non-Profit Organizations," or OMB Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments," as applicable; and other award terms and conditions. An application kit may be requested from the contact person at the address listed above. All required forms may be downloaded from the following website: <http://www.rdc.noaa.gov/grants/pdf>.

Proposals may be structured in any way that the applicants believe will best present their proposed project, but should be limited to a maximum of 40 pages. A format that NIST offers for consideration by applicants is as follows:

Proposal Summary**I. Executive Summary****II. Pilot Program Participants**

List all partnership members identified to date, their contact persons, addresses, telephone numbers and fax numbers. Indicate which members serve on the partnership development team.

III. Pilot Program

Personnel List key pilot program staff including the principal coordinator

IV. Narrative

Provide a concise summary (maximum of 10 pages) describing the implementation plan for the pilot program, including

- (a) Need assessment
 - (b) Objectives
 - (c) Program implementation
 - (d) Professional development opportunities for participating teachers
 - (e) Relationship to existing school reform efforts
 - (f) Evaluation
- V. Budget Prepare SF-424-A**
VI. Supporting Materials
 (a) Required forms
 (b) Letters of support from partners

Type of Funding Instrument

NIST expects to award up to 10 grants. This information is provided in the interest of maximum openness of the agency's intent. It is not intended to bind the agency to any specific number of grants.

Eligibility Criteria

Partnerships between an LEA and the local business and/or research communities are eligible to prepare applications for CASTL grants. An LEA may not submit an application without written commitment from these outside representatives. Applications will only be accepted from an LEA or non-profit administrator acting on behalf of the partnership. An LEA is defined in Title XIV, Part A of the Elementary and Secondary Education Act, as amended, 20 U.S.C. section 8801(18)(A). An LEA is "a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools." An official from the LEA must certify in writing that a third party administrator will act on its behalf with regard to this

project. A principal coordinator must be identified to serve as a point of contact.

Application Evaluation Criteria

Applications will be evaluated by a panel of at least three independent reviewers who are knowledgeable in the subject matter of this solicitation and its objectives. All applications will be evaluated and scored on the basis of the evaluation criteria delineated below.

1. Local needs assessment. The proposal demonstrates an identifiable need for financial assistance to promote science and math education in the local area. (20 points)
2. The proposal provides specialized professional development for K-12 math, science and technology teachers which complements existing professional development and/or reform efforts within the school district. (20 points)
3. Identification of an adequate number of relevant business and community partners. (15 points)
4. The proposed activities match the goals of this grant program, including adding to a sustainable infrastructure for community involvement and contribution to the educational system. (15 points)
5. Demonstration of meaningful provisions for academic year follow-up, continued dialogue among participants, and development of new curriculum based on the experience. (15 points)
6. Commitment to program evaluation, including participation in meetings, reporting requirements, and other evaluation criteria. (10 points)
7. Appropriateness of budget. (5 points)

Selection Procedures

The selection of LEAs to be recommended for an award will be made by Director of the Office of International and Academic Affairs (OIAA) at NIST. In recommending applications for funding, the OIAA Director will take into consideration the results of the evaluations and scores of the independent review panel, geographic distribution of funds, and the selection official's judgment as to which applications, taken as a whole, are likely to best further the goals of the CASTL program. In addition, school districts that represent urban or rural statistical areas as defined by the U.S. Census Bureau or who document needs requiring special assistance in promoting science and math education will be given priority. The final selection of applications and award of cooperative agreements will be made by the NIST Grants Officer

Other Requirements**Federal Policies and Procedures**

Recipients and subrecipients are subject to all Federal laws and Federal and DoC policies, regulations, and procedures applicable to Federal financial assistance awards.

Past Performance

Insatisfactory performance under prior Federal awards may result in an application not being considered for funding.

Preaward Activities

If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal or written assurance that may have been received, there is no obligation on the part of DoC/NIST to cover preaward costs.

Award Payments

Advances shall be limited to the minimum amounts necessary to meet immediate disbursement needs. Advanced funds not disbursed in a timely manner must be promptly returned to the Department of Commerce (DoC). Advances will be approved for periods not to exceed 30 days.

Budget Changes

When the terms of an award allow the recipient to transfer funds among approved direct cost categories, the transfer authority does not authorize the recipient to create new budget categories within an approved budget unless the Grants officer has provided prior approval.

Tax Refunds

Refunds of FICA/FUTA taxes received by the Recipient during or after the award period must be refunded or credited to the DoC where the benefits were financed with Federal funds under the award. The Recipient agrees to contact the Grants Officer immediately upon receipt of these refunds. The Recipient further agrees to refund portions of FICA/FUTA taxes determined to belong to the Federal Government, including refunds received after the expiration of the award.

Other Federal Awards with Similar Programmatic Activities

The Recipient must immediately provide written notification to the Federal Program Officer and the Grants Officer in the event that, subsequent to receipt of the DoC award, other financial assistance is received to support or fund

any portion of the scope of work incorporated into the DoC award. DoC will not pay for costs that are funded by other sources.

No Obligation for Future Funding

If an application is selected for funding, DoC/NIST has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of DoC/NIST.

Payment of Debts Owed the Federal Government

Any debts determined to be owned the Federal Government shall be paid promptly by the Recipient. Unless otherwise provided by law, a debt will be considered delinquent if it is not paid within 15 days of the due date. Failure to pay a debt by the due date shall result in the imposition of late payment charges. In addition, failure to pay the debt or establish a repayment agreement by the due date will also result in the referral of the debt for collection action any may result in DoC taking further action as specified in the terms of the award. Payment of a debt must not come from other Federally sponsored programs. Verification that other Federal funds have not been used will be made during future program visits and audits.

Competition and Codes of Conduct for Subawards

Any subawards must be made in a manner that will provide, to the maximum extent practicable, open and free competition. The Recipient must be alert to organizational conflicts of interest as well as other practices among subrecipients that may restrict or eliminate competition. In order to ensure objective subrecipient performance and eliminate unfair competitive advantage, subrecipients that develop or draft work requirements, statements of work, or requests for proposals shall be excluded from competing for such subawards.

The Recipient shall maintain written standards of conduct governing the performance of its employees engaged in the award and administration subawards. No employee, officer, or agent shall participate in the selection, award, or administration of a subaward supported by Federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties mentioned

in this section, has a financial interest or other interest in the organization selected for a subaward. The officers, employees, and agents of the Recipient may not solicit nor accept anything of monetary value from subrecipients. However, the Recipient may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the Recipient.

Subaward and/or Contract to a Federal Agency

Recipient, subrecipients, contractors, and/or subcontractors shall not subgrant or sub-contract any part of the approved project to any agency of the DoC and/or other Federal department, agency or instrumentality, without the prior written approval of the Grants Officer.

Name Check Review

All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicants' management honesty or financial integrity.

Primary Applicant Certifications

All primary applicants must subject a completed Form CD-511, Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying, and the following explanations are hereby provided:

1. Nonprocurement Debarment and Suspension

Prospective participants (as defined at 15 CFR part 26, section 105) are subject to 15 CFR part 26, Nonprocurement Debarment and Suspension and the related section of the certification form prescribed above apply;

2. Drug-Free Workplace

Grantees (as defined at 15 CFR 26.605) are subject to 15 CFR part 26, subpart F, Governmentwide Requirements for Drug-Free Workplace (Grants) and the related section of the certification form prescribed above applies;

3. Anti-Lobbying

Persons (as defined at 15 CFR 28.105) are subject to the lobbying provisions of 31 U.S.C. 1352. Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions, and the lobbying section of the certification form prescribed above applies to applicants/bids for cooperative agreements for more than \$100,000; and

4. Anti-Lobbying Disclosures

Any applicant who has paid or will pay for lobbying using any funds must submit an SF-LLL. Disclosure of Lobbying Activities, as required under 15 CFR part 28, appendix B.

False Statements

A false statement on an application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Intergovernmental Review

Applications under this program are not subject to Executive Order 12372, "Intergovernmental Review of Federal Programs."

Purchase of American-Made Equipment and Products

Applicants are hereby notified that they are encouraged, to the greatest practicable extent, to purchase American-made equipment and products with funding provided under this program.

Non-Compliance With Award Provisions

Failure to comply with any or all of the provisions of the award may be considered grounds for any or all of the following actions: Establishment of an account receivable, withholding payments under any DoC awards to the Recipient, changing the method of payment from advance to reimbursement only, termination of any DoC active awards, and may have a negative impact on future funding by the DoC.

Prohibition Against Assignment by the Recipient

Notwithstanding any other provision of the award, the Recipient shall not transfer, pledge, mortgage, or otherwise assign the award, or any interest therein, or any claim arising thereunder, to any party or parties, bank trust companies, or other financing or financial institutions.

Internal Revenue Service (IRS) Information

Any Recipient classified for tax purposes as an individual, partnership, proprietorship, corporation, or medical corporation is required to submit a taxpayer identification number (TIN) (either social security number, employer identification number as applicable, or registered foreign organization number) on Form W-9, "Payer's Request for Taxpayer Identification Number." Tax-exempt organizations and corporations (with the exception of medical corporations) are excluded from this requirement. Form W-9 shall be submitted to the Grants Officer within 60 days of the award start date. The TIN will be provided to the IRS by DoC on Form 1099-G, "Statement for Recipients of Certain Government Payments." Recipients who either fail to provide their TIN or provide an incorrect TIN may have funding suspended until the requirement is met.

Disclosure of Recipient's TIN is mandatory for Federal income tax reporting purposes under the authority of 26 USC, section 6011 and 6109(d), and 26 CFR 301.6109-1. This is to ensure the accuracy of income computation by the IRS. This information will be used to identify an individual who is compensated with DoC funds or paid interest under the Prompt Payment Act.

Foreign Travel

Recipients must comply with the provisions of the Fly America Act (49 U.S.C. 40118). The Fly America Act requires that Federal travelers and others performing U.S. Government-financed foreign air travel must use U.S. flag air carriers, to the extent that service by such carriers is available. Foreign air carriers may be used only when a U.S. flag air carrier is unavailable, or use of U.S. flag air carrier service will not accomplish the agency's mission.

Freedom of Information Act (FOIA) Disclosure

To the extent permitted under the FOIA, contents of applications and proposals submitted by successful applicants may be released in response to FOIA requests.

Executive Order 12866

This rule has been determined not to be significant for purposes of Executive Order 12866.

Paperwork Reduction Act

This Notice involves collections of information subject to the Paperwork reduction Act (PRA), which have been

approved by the Office of Management and Budget (OMB) under OMB Control Numbers 0348-0043, 0348-0044, 0348-0040 and 0348-0046. Notwithstanding, any other provisions of law no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA unless that collection displays a current valid OMB Control number.

Catalog of Federal Domestic Assistance

These awards fall under Catalog of Federal Domestic Assistance Program No. 11.609

Dated: May 24, 1999

Karen H. Brown,

Deputy Director

(401) 99-13690 File 3-1-99 (3-4-99)

BILLING CODE 3510-13-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Whale Watch Guidelines

[I.D.052499D]

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of Availability of Revised Whale Watch Guidelines for Vessel Operations in the Northeastern United States.

SUMMARY: The National Marine Fisheries Service Northeast Region (NMFS/NER) has, in coordination with the Northeast Recovery Plan Implementation Team, revised the operational guidelines for all vessels engaged in whale watching in the northeastern United States. The revised guidelines address concerns about the possibility of whale watch vessels colliding with whales. NMFS/NER, which first developed whale watching guidelines in 1985, has revised the guidelines to provide specific vessel speed recommendations, decrease the number of vessels that should be in close proximity to whales, and recommend the use of lookouts when entering or departing known whale aggregation areas.

ADDRESSES: Copies of the new guidelines are available by writing or calling either Douglas Beach, NMFS, One Blackburn Dr., Gloucester, MA 01930, 978/281-9254; or Anne Smrcina, NOS, Stellwagen National Marine Sanctuary, 175 Edward Foster Rd., Scituate, MA 02066, 781/545-8026.

FOR FURTHER INFORMATION CONTACT:

Doug Beach, NMFS, Northeast Region 978/281-9254; or Anne Smrcina, NOS, Stellwagen Bank National Marine Sanctuary 781/545-8026.

SUPPLEMENTARY INFORMATION: Whale watch vessel operators seek out areas where whales concentrate, which has led to numbers of vessels congregating around groups of whales, and thereby increased the potential for harassment, injury or death of these animals. NMFS Northeast Region has attempted to address this situation with a combination of enforcing the Endangered Species Act (ESA) Section 9 prohibitions against taking listed species, promulgating regulations limiting approaches to right whales to 500 yards, and issuing operational guidelines in 1985 to give vessel operators guidance on how to approach large whales without causing harassment. However, since the guidelines were first issued, the increase in numbers and overall speed of vessels operating in whale high use areas has raised the risk of collision with whales, as evidenced by two collisions with whales that occurred during the summer of 1998. The Northeast Recovery Plan Implementation Team, which works to implement the ESA Right Whale and Humpback Whale Recovery Plans, established a Whale Watch Advisory Group (WWAG) under its Ship Strike Sub-Committee to look into appropriate measures to address this increasing threat to whales. The WWAG came up with revisions to the existing guidelines that would address the issue. NMFS has revised the guidelines to incorporate the recommendations of the WWAG.

The revised guidelines include several measures intended to decrease the likelihood of future adverse interactions with whales, such as collisions. The previous guidelines, for instance, included a circular Whale Awareness Zone that extended one-quarter mile from any observed whale. The new awareness zone in the revised guidelines extends two miles from any observed whale. The new guidelines recommend specific speed limits for vessels approaching or departing from whales and further recommend the posting of a dedicated lookout to keep track of all whales in the area and to advise the vessel operator of their location when entering or leaving whale watching areas.

The U.S. Coast Guard (USCG) Auxiliary has established a program to monitor the effectiveness of the revised whale approach guidelines, and will deploy trained observers aboard vessels owned by a number of commercial

whale watch companies who have volunteered to participate in this monitoring program. The USCG Auxiliary will also use other platforms, such as USCG Auxiliary vessels and aircraft to observe the activities of recreational and commercial whale watch vessel operators on Stellwagen Bank and in other waters off New England during the 1999 season.

The results of the USCG Auxiliary monitoring program are expected to help NOAA determine whether the voluntary guidelines are sufficient or whether additional measures, such as regulations, need to be implemented to prevent harassment or injury of whales in coastal waters of the Northeastern United States.

Dated: May 24, 1999.

Andrew Rosenberg,

Deputy Assistant Administrator for Fisheries,
National Marine Fisheries Service

[FR Doc. 99-13663 Filed 5-28-99; 8:45 am]

BILLING CODE 3510-22-F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 052499G]

New England Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Herring Committee (joint with the Atlantic States Marine Fisheries Commission Herring Section); Mid-Atlantic Plans Committee, Groundfish Committee and Advisory Panel, Interspecies Committee, Enforcement Committee and Advisory Panel, and Habitat Committee and Advisory Panel in June, 1999 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from these groups will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meetings will be held between Monday, June 14, 1999 and Monday, June 28, 1999. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meetings will be held in Peabody, Saugus and Wakefield, MA; and Portsmouth, NH. See

SUPPLEMENTARY INFORMATION for specific locations.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council (781) 231-0422. Requests for special accommodations should be addressed to the New England Fishery Management Council, 5 Broadway, Saugus, MA 01906-1036; telephone: (781) 231-0422.

SUPPLEMENTARY INFORMATION:

Meeting Dates and Agendas

Monday, June 14, 1999, at 10 a.m. and Tuesday, June 15, at 9 a.m.—Joint NEFMC Herring Committee and Atlantic States Marine Fisheries Commission Herring Section Meeting

Location: Holiday Inn, One Newbury Street (Route 1), Peabody, MA 01960; telephone: (978) 535-4600.

The committee and section will review the draft Atlantic Herring Stock Assessment and Fisheries Economics (SAFE) Report and recommend specifications for the 2000 fishing year. They also will develop recommendations for management measures for the 2000 fishing year (such as total allowable catch (TAC) set-asides, changes to the spawning closures in federal waters, or other framework adjustments). After reviewing the Herring Advisory Panel's recommendations on the subject, the committee and section will begin development of a limited entry or controlled access system for Management Area 1A in the Gulf of Maine. They will consider the Advisory Panel recommendation to establish an August 1, 1999 control date for the Atlantic herring fishery. There also will be a discussion of the 1999 large vessel annual specification.

Wednesday, June 16, 1999, 9:30 a.m.—Mid-Atlantic Plans Committee Meeting

Location: New England Fishery Management Council Office, 5 Broadway, Saugus, MA 01906; telephone: (781) 231-0422.

The committee will review a Mid-Atlantic Fishery Management Council proposal for tilefish closures and proposed mackerel management measures. The committee also will discuss coordinating the Atlantic herring and mackerel fishery management plans.

Thursday, June 17, 1999, 9:30 a.m.—Groundfish Committee and Groundfish Advisory Panel Joint Meeting

Location: Sheraton Colonial Hotel, One Audubon Road, Wakefield, MA 01960; telephone: (781) 245-9300.

The committee and panel will discuss and prepare a draft management policy

for closed areas, including a statement of purpose and consideration of exceptions, for commercial and recreational fisheries for possible inclusion in Amendment 13 to the Northeast Multispecies Fishery Management Plan. The committee and panel will discuss the current cod stock boundaries and its effects on management policy, and advise the Council on possible alternative management area boundaries. The committee and panel also will review Amendment 13 scoping comments and industry proposals for management alternatives. It will continue the development of recommendations to the Council on issues and measures to be included in a public hearing document for Amendment 13, including but not limited to: management of the recreational and party/charter fishery, management policy and strategy for the commercial fishery, action to rebuild all stocks in the fishery management unit as needed under the Council's new overfishing definitions; management of fleet fishing capacity, including possible implementation of a two-tiered permit system to address latent fishing permits; proposals for industry support of scientific research and conservation engineering programs; modification of the annual adjustment schedule and possible change to the timing of the fishing year; the use of electronic vessel monitoring systems; and other issues that may be identified during the scoping process.

Monday, June 21 at 9:30 a.m. and Tuesday, June 22 at 9 a.m.—Scientific and Statistical Committee Meeting

Location: New England Fishery Management Council Office, 5 Broadway, Saugus, MA 01906; telephone: (781) 231-0422.

Review of scientific information and analyses for the Herring (SAFE) Report and discussion of meeting procedures and protocols.

Tuesday, June 22, 1999, 10 a.m. and Wednesday, June 23, 1999, at 9 a.m.—Interspecies Committee Meeting

Location: Sheraton Colonial Hotel, One Audubon Road, Wakefield, MA 01880; telephone: (781) 245-9300.

The committee will receive a presentation on U.S. Global Ocean Ecosystems Dynamics (GLOBEC) Program experiments and discuss managing capacity and latent effort, changing fishing years, small vessel permit upgrading restrictions and other relevant business.

Thursday, June 24, 1999, 9:30 a.m.—Joint Enforcement Committee and Advisory Panel Meeting

Location: New England Fishery Management Council Office, 5

Broadway, Saugus, MA 01906;
telephone: (781) 231-0422

The committee and panel will review draft enforcement guidelines for Council consideration.

Monday, June 28, 1999, 9:30 a.m.—
Habitat Committee and Advisory Panel
Joint Meeting

Location: Sheraton Plymouth Inn, 180
Water Street Plymouth, MA 02360;
telephone: (508) 747-4900.

The committee and panel will review the 1999 Habitat Annual Review Report and consider recommending additional Habitat Areas of Particular Concern, in addition to measures to protect essential fish habitat (EFH). The committee also will consider habitat-related issues to be addressed during development of the next Groundfish and Sea Scallop Amendments. They will review NMFS's EFH consultation process and coordination criteria.

Although other issues not contained in this agenda may come before this Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see ADDRESSES) at least 5 days prior to the meeting dates.

Dated: May 25, 1999

Bruce C. Morehead,

Acting Director, Office of Sustainable
Fisheries, National Marine Fisheries Service
[FR Doc. 99-13827 Filed 5-28-99; 8:45 am]

BILLING CODE 3510-22-F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 052499F]

Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries
Service (NMFS), National Oceanic and
Atmospheric Administration (NOAA),
Commerce.

ACTION: Notice of public meetings.

SUMMARY: The Pacific Fishery
Management Council (Council) and its
advisory entities will hold public
meetings.

DATES: The Council and its advisory
entities will meet June 20–25, 1999. The
Council meeting will begin on Tuesday,
June 22, at 8 a.m., reconvening each day
through Friday. All meetings are open to
the public, except a closed session will
be held from 8 a.m. until 8:30 a.m. on
Thursday, June 24 to address litigation
and personnel matters. The Council will
meet as late as necessary each day to
complete its scheduled business.

ADDRESSES: The meetings will be held at
the Sheraton Portland Airport Hotel,
8235 NE Airport Way, Portland, OR;
telephone: (503) 281-2500.

Council address: Pacific Fishery
Management Council, 2130 SW Fifth
Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT:
Lawrence D. Six, Executive Director;
telephone: (503) 326-6352.

SUPPLEMENTARY INFORMATION: The
following items are on the Council
agenda, but not necessarily in this order:

- A. Call to Order
- 1. Opening Remarks, Introductions,
Roll Call
- 2. Approve Agenda
- 3. Approve March and April Meeting
Minutes
- B. Coastal Pelagic Species
Management
 - 1. Status of Approval of Fishery
Management Plan
 - 2. Anchovy Biomass Estimate and
Quotas for 1999–2000 Season
- C. Highly Migratory Species
Management - Determine Need for
Council Fishery Management Plan
- D. Salmon Management
 - 1. Sequence of Events and Status of
Fisheries
 - 2. Revisions to the Preseason Process
 - 3. Non-Retention Mortality in Ocean
Salmon Fisheries
 - 4. Options to Recover Snake River
Chinook Salmon
- E. Marine Reserves - Council
Direction to Committee
- F. Habitat Issues
 - 1. Groundfish Habitat Areas of
Particular Concern
 - 2. Other Issues
- G. Groundfish Management
 - 1. Status of Federal Regulations and
Activities and Applications for
Exempted Fishing Permits
 - 2. Status Reports on Review of
Groundfish Priorities, Recreational
Fishery Data Collection Issues, the
Fixed Gear Sablefish Industry
Meeting, the Ability to Address Permit
Stacking in 1999, Experimental Setnet
Landings as Qualification for Sablefish
Tier Assignment, Industry Survey of
Buyback Program, Process Required to
Allow Use of Open Access Hook-and-
Line Gear by Fixed Gear Limited Entry

Permit Holders, Harvest Policy Review,
Rockfish Stock Status, and Bycatch
Issues

- 3. Strategic Planning
- 4. Stock Assessment Priorities for
2000
- 5. Consistency of California Rockfish
Size Limits with Groundfish Plan
- 6. Status of Fisheries and Inseason
Adjustments
- 7. Observer Program
- 8. Control Date for Potential Limited
Access in the Open Access Fishery
- 9. Rebuilding Plans for Lingcod,
Bocaccio, and Pacific Ocean Perch,
Including Allocation and Bycatch
Reduction
- 10. Rockfish Allocation
- 11. Groundfish Priorities and
Schedules
- H. Administrative and Other Matters
 - 1. Report of the Budget Committee
 - 2. Status of Legislation
 - 3. Appointments to Advisory Groups
 - 4. Revisions to Statement of
Organization, Practices, and Procedures
 - 5. Draft Agenda for September 1999

Advisory Meetings

The Groundfish Management Team
will convene on Sunday, June 20, at 2
p.m. and on Monday, June 21, at 8 a.m.
to address groundfish issues on the
Council agenda.

The Scientific and Statistical
Committee will convene on Monday,
June 21, at 8:30 a.m. and on Tuesday,
June 22, at 8 a.m. to address scientific
issues on the Council agenda.

The Habitat Steering Group meets at
9 a.m. on Monday, June 21, to address
issues and actions affecting habitat of
fish species managed by the Council.

The Groundfish Advisory Subpanel
will convene on Monday, June 21, at 1
p.m. and will continue to meet
throughout the week as necessary to
address groundfish management items
on the Council.

The Ad-Hoc Salmon Mortality
Committee will meet on Monday, June
21, at 1 p.m. to discuss estimation of
hook-and-release mortality for ocean
salmon fisheries.

The Budget Committee meets on
Monday, June 21 at 3 p.m. to review the
status of the 1999 Council budget.

The Enforcement Consultants meet at
5:30 p.m. on Tuesday, June 22, to
address enforcement issues relating to
Council agenda items.

Although other issues not contained
in this agenda may come before this
Council for discussion, in accordance
with the Magnuson-Stevens Fishery
Conservation and Management Act,
those issues may not be the subject of
formal action during this meeting.
Action will be restricted to those issues

specifically identified in the agenda listed in this notice.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. John S. Rhoton at (503) 326-6352 at least 5 days prior to the meeting date.

Dated: May 25, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99-13826 Filed 5-28-99; 8:45 am]

BILLING CODE 3510-22-F

COMMODITY FUTURES TRADING COMMISSION

Performance of Certain Functions by National Futures Association With Respect to Those Domestic and Foreign Firms Acting in the Capacity of a Commodity Pool Operator or a Commodity Trading Advisor

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice and order.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is authorizing the National Futures Association ("NFA") to conduct reviews of disclosure documents required to be filed with the Commission pursuant to Rule 30.6(b)(2) by firms acting in the capacity of commodity pool operators ("CPOs") and commodity trading advisors ("CTAs").¹ Further, the Commission is authorizing NFA to maintain and serve as the official custodian of certain Commission records.

EFFECTIVE DATE: July 1, 1999.

FOR FURTHER INFORMATION CONTACT:

Laurie Plessala Duperier, Special Counsel, or Andrew Chapin, Staff Attorney, Division of Trading and Markets, Commodity Futures Trading Commission, 1155 21st Street, N.W., Washington, D.C. 20581. Telephone: (202) 418-5430.

Order Authorizing the Performance of Certain Functions With Respect to U.S. and Non-U.S. Firms

I. Authority and Background

Section 8a(10) of the Commodity Exchange Act² ("Act") provides that the Commission may authorize any person to perform any portion of the

registration functions under the Act, notwithstanding any other provision of law, in accordance with rules adopted by such person and submitted to the Commission for approval or, if applicable, for review pursuant to Section 17(j) of the Act³ and subject to the provisions of the Act applicable to registrations granted by the Commission. Section 17(o)(1) of the Act⁴ provides that the Commission may require NFA to perform Commission registration functions in accordance with the Act and NFA rules. NFA has confirmed its willingness to perform certain functions now performed by the Commission and has provided the Commission with a detailed proposal setting forth standards and procedures to be followed and reports to be generated in administering the functions discussed below.⁵

Upon consideration, the Commission has determined to authorize NFA, effective July 1, 1999, to conduct reviews of disclosure documents required to be filed pursuant to Rule 30.6(b)(2) by firms registered or required to be registered as CPOs or CTAs under Part 30, or exempt from registration pursuant to Rule 30.5, and to maintain and serve as the official custodian of records for these disclosure documents.

Compliance With Rule 30.6(b)(2)

Rule 30.6(b)(2)⁶ requires CPOs and CTAs registered or required to be registered under Part 30, or exempt from registration pursuant to Rule 30.5, to provide a disclosure document⁷ to prospective U.S. foreign futures and foreign options customers⁸ that do not meet the definition of qualified eligible participants and qualified eligible clients, respectively.⁹ Rule 30.6(b)(2) also requires CPOs and CTAs to file the disclosure documents with the Commission in accordance with Rule

4.26(d) and 4.36(d), respectively.¹⁰ Pursuant to an October 6, 1997 delegation order, the Commission authorized NFA to review disclosure documents required to be filed with the Commission by CPOs and CTA pursuant to Rules 4.26(d) and 4.36(d), respectively.¹¹ In light of NFA's experience in receiving and reviewing disclosure documents filed in accordance with Rules 4.26(d) and 4.36(d), the Commission believes that it is appropriate for NFA to undertake the performance of this function as it relates to Rule 30.6(b)(2). Accordingly, by this Order, NFA is authorized to review all disclosure documents filed pursuant to Rule 30.6(b)(2) by firms registered or required to be registered as CPOs or CTAs under Part 30, or exempt from registration pursuant to Rule 30.5.

II. Conclusion and Order

The Commission has determined, in accordance with Sections 8a(10) and 17(o)(1) of the Act, subject to any restriction by a given jurisdiction that information must pass directly between regulatory authorities, to authorize NFA to perform the following functions:

- (1) To conduct reviews of disclosure documents required to be filed with the Commission pursuant to Rule 30.6(b)(2) by firms registered or required to be registered as CPOs or CTAs under Part 30, or exempt from registration pursuant to Rule 30.5; and
- (2) To maintain and to serve as the official custodian of records for the disclosure documents required to Rule 30.6(b)(2).

NFA shall perform these functions in accordance with the standards established by the Act and the regulations and Commission orders issued thereunder and shall provide the Commission with such summaries and periodic reports as the Commission may determine are necessary for the effective oversight of this program.

These determinations are based on the Congressional intent expressed in

¹ 7 U.S.C. 21(j) (1998).

² 7 U.S.C. 21(o)(1) (1998).

³ U.S.C. Letter from Robert K. Wilmoth, President of NFA, to Brooksley Born, Chairperson of the Commission, dated June 20, 1997.

⁴ On January 11, 1999, the Commission proposed to amend Rules 30.5 and 30.6. 64 FR 1566 (January 11, 1999).

⁵ The information contained in the disclosure document must comply with Rule 4.21 for CPOs and Rule 4.31 for CTAs.

⁶ Pursuant to Rule 30.1(c), "foreign futures or foreign options customer" means "any person located in the United States, its territories or possessions who trades in foreign futures or foreign options. Provided, That an owner or holder of a proprietary account defined in paragraph (y) or § 1.3 of this Chapter shall not be deemed to be a foreign futures or foreign options customer within §§ 30.6 and 30.7 of this part."

⁷ Qualified eligible participants and qualified eligible clients are defined in Rules 4.7(a)(1)(ii) and 4.7(b)(1)(ii), respectively.

⁸ Rule 4.26(d)(1) requires that a CPO file a disclosure document with the Commission for each pool that it operates or intends to operate not less than 21 calendar days prior to the date the CPO intends to deliver the document to prospective participants in the pool. Similarly, Rule 4.36(d)(1) requires that a CTA file a disclosure document with the Commission for each trading program that it offers or intends to offer not less than 21 calendar days prior to the date the CTA first intends to deliver the document to a prospective client in the trading program. Further, pursuant to Rules 4.26(d) and 4.36(d), CPOs and CTAs, respectively, must file with the Commission all subsequent amendments to their disclosure documents within 21 calendar days of the date upon which the CPO or CTA first knows or has reason to know of the defect requiring amendment. In addition, CPOs and CTAs may not use their disclosure documents for more than nine months from the effective dates of such documents, in accordance with Rules 4.26(a)(2) and 4.36(a)(2), respectively.

¹¹ 62 FR 52088 (October 6, 1997).

¹ Commission rules referred to herein are found at 17 CFR Ch. I (1999).

² 7 U.S.C. 12a(10) (1998).

Sections 8a(10) and 17(o) of the Act that the Commission shall have the authority to delegate to NFA any portion of the Commission's registration responsibilities under the Act for purposes of carrying out these responsibilities in the most efficient and cost-effective manner and upon NFA's representations concerning the standards and procedures to be followed and the reports to be generated in administering these functions.

This Order does not, however, authorize NFA to render "no-action" positions, exemptions or interpretations with respect to applicable disclosure, reporting, recordkeeping and registration requirements.

Nothing in this Order or in Sections 8a(10) or 17(o) of the Act shall affect the Commission's authority to review NFA's performance of the Commission functions listed above.

NFA is authorized to perform all functions specified herein until such time as the Commission orders otherwise. Nothing in this Order shall prevent the Commission from exercising the authority delegated herein. NFA may submit to the Commission for decision any specific matters that have been delegated to it, and Commission staff will be available to discuss with NFA staff issues relating to the implementation of this Order. Nothing in this Order affects the applicability of previous orders issued by the Commission under Parts 4 and 30.

Issued in Washington, DC, on May 21, 1999 by the Commission

Jean A. Webb,

Secretary of the Commission

[FR Doc. 99-13572 Filed 5/28/99; 8:45 am]

BILLING CODE 6351-01-M

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 99-C0006]

Shimano American Corporation; Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the *Federal Register* in accordance with the terms of 16 CFR 1118.20. Published below is a provisionally-accepted Settlement Agreement with Shimano American Corporation, containing a civil penalty of \$150,000.

DATES: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by June 16, 1999.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 99-C0006, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

FOR FURTHER INFORMATION CONTACT: Deborah Lewis, Trial Attorney, Office of Compliance and Enforcement, Consumer Product Safety Commission, Washington DC 20207; telephone (301) 504-0626, 1346.

SUPPLEMENTARY INFORMATION: The text of the Agreement and Order appears below.

Dated: May 25, 1999

Sadye E. Dunn,

Secretary

Settlement Agreement and Order

1. Shimano American Corporation ("Shimano") a corporation, enters into this Settlement Agreement and Order with the United States Consumer Product Safety Commission ("the CPSC") in accordance with 16 CFR 1118.20 of the Commission's Procedures for Investigations, Inspections, and Inquiries under the Consumer Product Safety Act ("CPSA")

I. The Parties

2. The Consumer Product Safety Commission is an independent federal regulatory agency responsible for the enforcement of the Consumer Product Safety Act, 15 U.S.C. 2051-2084.

3. Shimano is a corporation organized and existing under the laws of the State of California. Its principal offices are located at One Holland Drive, Irvine, CA. 92618.

II. Staff Allegations

4. Between March, 1994 and November, 1995, Shimano Inc. of Japan manufactured over one million bicycle cranks—models FC-CT90, FC-M290 and FC-MC12—a significant number of which were imported and distributed in the United States by Shimano American Corporation. Shimano is, therefore, a distributor of bicycle cranks in commerce.

5. The bicycle cranks attach to the pedals of bicycles. Shimano Inc. of Japan and Shimano sold the cranks to 49 bicycle manufacturers.

6. The bicycle cranks can break during use. A consumer can be injured in a number of ways if the bicycle cranks break while he or she is riding it:

(1) The broken crank or part exposed as a result of the crank breaking can injure the bicyclist; (2) The bicyclist can fall as a result of the broken crank, leading to injuries from contact with the ground; (3) The bicyclist can lose control and collide with another vehicle or object.

7. Between June, 1995 and July, 1997, Shimano received 22 reports of injuries from consumers due to broken cranks. The injuries included fractures, lacerations, puncture wounds, head trauma, and severe bruising and swelling. Shimano conducted numerous tests on the bicycle cranks and held at least one meeting at a high level in the corporation in September, 1996, about its growing concern over the cranks. Yet, Shimano did not report the problem until July, 1997.

8. Shimano obtained information which reasonably supported the conclusion that its bicycle cranks contained defects which could create a substantial product hazard but failed to report that information in a timely manner as required by section 15(b) of the CPSA, 15 U.S.C. 20643(b).

III. Response of Shimano

9. Shimano denies the allegations of the staff that the bicycle cranks contain a defect which could create a substantial product hazard pursuant to section 15(a) of the CPSA, 15 U.S.C. 2064(a), denies that it violated the reporting requirements of section 15(b) of the CPSA, 15 U.S.C. 2064(b), and further denies the other allegations of the CPSC as stated herein.

10. Shimano voluntarily contacted the CPSC in May 1997, to seek the CPSC's cooperation in conducting a recall of the three models of bicycle cranks. In June, Shimano filed a report under Section 15(b) of the CPSA and proposed a voluntary product recall under the CPSC's Fast Track program. Shimano's report and voluntary recall did not result from any investigation by the CPSC, but rather represented part of Shimano's effort to maintain its reputation for providing bicycle components of the highest quality.

11. Prior to May 1997, Shimano did not have reason to believe that the cranks posed a substantial product hazard. Shimano believes the information available did not reasonably support the conclusion that the products were defective within the meaning of the CPSA, and, therefore, no report was required under Section 15(b) of the Act. During the time period in which the CPSC alleges Shimano wrongfully failed to file a report, Shimano conducted its own internal testing as well as independent testing of the cranks, and these tests suggested

that no defect was present. Likewise, the extremely low failure rate of the cranks and the rigorous conditions in which they were used, suggested that any failures were due to rigorous usage rather than an inherent product defect. For these reasons, Shimano was not required to, and did not, report to the CPSC prior to May 1997.

12. By entering into this Settlement Agreement and Order, Shimano does not admit any liability or wrongdoing. This Settlement Agreement and Order is agreed to by Shimano to avoid incurring additional legal costs and does not constitute, and is not evidence of, an admission of any liability or wrongdoing by Shimano.

IV. Agreement of the Parties

13. The Commission has jurisdiction over this matter under the Consumer Product Safety Act, 15 U.S.C. 2051 *et seq.*

14. Shimano knowingly, voluntarily and completely waives any rights it may have to: (1) an administrative or judicial hearing with respect to the staff allegations discussed in paragraphs 4 through 8 above; (2) judicial review or other challenge or contest of the validity of the Commission's Order; (3) a determination by the Commission as to whether a violation of section 15(b) of the CPSA, 15 U.S.C. 2064(b), has occurred; and (4) a statement of findings of fact and conclusion of law with regard to the staff allegations.

15. Upon provisional acceptance of this Settlement Agreement and Order by the Commission, this Settlement Agreement and Order shall be placed on the public record and shall be published in the **Federal Register** in accordance with 16 CFR 1118.20.

16. This Settlement Agreement and Order releases Shimano and Shimano Inc. from liability arising from any allegations of violation of section 15(b) of the CPSA regarding the bicycle cranks described in paragraph 4, above. The Settlement Agreement and Order becomes effective upon final acceptance by the Commission and its service upon Shimano.

17. Upon final acceptance of this Settlement Agreement by the Commission, the Commission may issue a press release to advise the public of the civil penalty Settlement Agreement and Order.

18. Shimano shall pay the Consumer Product Safety Commission a civil penalty in the amount of \$150,000 within ten days of final acceptance of the Settlement Agreement and Order.

19. Shimano agrees to entry of the attached Order, which is incorporated herein by reference, and to be bound by its terms.

20. This Settlement Agreement and Order are entered into for settlement purposes only and shall not constitute an admission or determination arising from the allegations that the bicycle cranks contain a defect which could create a substantial product hazard.

21. This Settlement Agreement is binding upon Shimano and the assigns or successors of Shimano.

22. Agreements, understandings, representations, or interpretations made outside this Settlement Agreement and Order may not be used to vary or to contradict its terms.

Dated: March 29, 1999

By: Shimano American Corporation
U.S. Consumer Product Safety Commission
By: Alan Schoem.

Assistant Executive Director, Office of Compliance

Eric Stone.

Director, Legal Division, Office of Compliance

Deborah Lewis.

Attorney, Legal Division, Office of Compliance

Order

Upon consideration of the Settlement Agreement entered into between Shimano American Corporation, a corporation, and the staff of the U.S. Consumer Product Safety Commission; and the Commission having jurisdiction over the subject matter and Shimano American Corporation, and it appearing that the Settlement Agreement and Order is in the public interest, it is

Ordered, that the Settlement Agreement be and hereby is accepted, and it is

Further ordered, Shimano American Corporation shall pay the Commission a civil penalty in the amount of one hundred fifty thousand and 00/100 dollars, (\$150,000.00) within ten (10) days after service of this Final Order upon Shimano American Corporation.

Provisionally accepted and Provisional Order issued on the 25th day of May, 1999.

By Order of the Commission.

Sadve E. Dunn.

Secretary, U.S. Consumer Product Safety Commission.

[FR Doc. 99-13669 Filed 5-28-99; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 99-16]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Pub. L. 104-164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604-6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 99-16, with attached transmittal, policy justification, Sensitivity of Technology, and Sec. 620C(d) of the FAA of 1961.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001-10-M



DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

17 May 1999

In reply refer to:
I-99/05178

Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 99-16, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance (LOA) to Greece for defense articles and services estimated to cost \$200 million. Soon after this letter is delivered to your office, we plan to notify the news media.

You will also find attached a certification as required by Section 620C(d) of the Foreign Assistance Act of 1961, as amended, that this action is consistent with Section 620C(b) of that statute.

Sincerely,

A handwritten signature in dark ink, reading "MS Davison", is positioned above the typed name.

MICHAEL S. DAVISON, JR.
LIEUTENANT GENERAL, USA
DIRECTOR

Attachments

Transmittal No. 99-16

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

- (i) Prospective Purchaser: Greece
- (ii) Total Estimated Value:

Major Defense Equipment*	\$ 0 million
Other	<u>\$200 million</u>
TOTAL	\$200 million
- (iii) Description of Articles or Services Offered: PATRIOT Missile System support equipment including spare and repair parts, interrogator sets, fuzes, telemetry kits, communication security equipment, technical assistance, precision lightweight global positioning system receiver, engineering services, support and test equipment, publications and data documentation, personnel training and training equipment, technical support, and other related elements of logistics support.
- (iv) Military Department: Army (XJN, GDH, LAA, ODV, TCV, XJS, and XJU)
Navy (BFM)
- (v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None
- (vi) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: See Annex attached.
- (vii) Date Report Delivered to Congress: 17 May 1999

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Greece - PATRIOT Missile System Support Equipment

The Government of Greece has requested a possible sale of PATRIOT Missile System support equipment including spare and repair parts, interrogator sets, fuzes, telemetry kits, communication security equipment, technical assistance, precision lightweight global positioning system receiver, engineering services, support and test equipment, publications and data documentation, personnel training and training equipment, technical support, and other related elements of logistics support. The estimated cost is \$200 million.

This proposed sale will contribute to the foreign policy and national security of the United States by improving the military capabilities of Greece and furthering NATO rationalization, standardization and interoperability.

Greece needs this surface-to-air equipment to continue the upgrade of its air defense capabilities and will have no difficulty absorbing this additional equipment into its armed forces. The equipment will be provided in accordance with, and subject to the limitation on use and transfer provided under the Arms Export Control Act, as embodied in the terms of sale. This sale will not adversely affect either the military balance in the region or U.S. efforts to encourage a negotiated settlement of the Cyprus question.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be Raytheon Corporation, Andover, Massachusetts. One or more proposed offset agreements may be related to this proposed sale.

Implementation of this proposed sale will require the assignment of two U.S. Government personnel for two years to Greece.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 99-16**Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act****Annex
Item No. vi****(vi) Sensitivity of Technology:**

1. The following PATRIOT Air Defense Weapon System PAC-3 items are classified Confidential: missile MIM-104D (including seeker and fuze) and AN/MPS-53 radar set. Parts of the Technical Data Package are classified Confidential/Secret. Most publications for operation and maintenance are unclassified but are marked Restricted Distribution; some are classified Confidential/Secret. Communications equipment remains unclassified because keys are not releasable. The highest level of classified information required to be released under the terms of the Engineering Services contract is Secret. Most, though not all, of the Secret materiel is in the form of Software Investigative Reports which describe proposed changes to the software in the PATRIOT system. Some can be approved for release to the customer. If technology is lost to a technologically advanced or competent adversary, countermeasures could be developed that could degrade the effectiveness of the system.


2. A determination has been made that the Greece can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

17 May 1999

Certification Under Section 620C(d)
Of The Foreign Assistance Act of 1961, As Amended

Pursuant to § 620C(d) of the Foreign Assistance Act of 1961, as amended (the Act), Executive Order 12163 (sec. 1-201(a)(13)) and the Secretary of State's memorandum of March 30, 1999, I hereby certify that the furnishing to Greece of 125 PATRIOT MIM-104A missiles, PATRIOT Missile System support equipment including spare and repair parts, interrogator sets, fuses, telemetry kits, communication security equipment, technical assistance, a precision lightweight global positioning system receiver, engineering services, support and test equipment, publications and data documentation, personnel training and training equipment, technical support and related logistics support and lease of PATRIOT PAC-3 equipment consisting of three radar sets, one engagement control station, 12 launch stations, one guided missile transporter, one launch station test set, and one information control central command station is consistent with the principles contained in § 620(b) of the Act.

This certification will be made part of the notification to Congress under § 36(b) of the Arms Export Control Act regarding the proposed sale of the above-named articles and services and is based on the justification accompanying said notification, of which said justification constitutes a full explanation.



John D. Holum
Senior Advisor for Arms Control and
International Security

DEPARTMENT OF DEFENSE

Office of the Secretary

U.S. Court of Appeals for the Armed Forces Code Committee Meeting

ACTION: Notice of public meeting.

SUMMARY: This notice announces the forthcoming public meeting of the Code Committee established by the Article 146(a), Uniform Code of Military Justice, 10 U.S.C. § 946(a), to be held at the Courthouse of the United States Court of Appeals for the Armed Forces, 450 E Street, NW, Washington, DC 20442-0001, at 3:00 p.m. on Wednesday, June 2, 1999. The agenda for this meeting will include consideration of proposed changes to the Uniform Code of Military Justice and the Manual for Courts-Martial, United States, 1984, and other matters relating to the operation of the Uniform Code of Military Justice throughout the Armed Forces.

DATES: June 2, 1999.

FOR FURTHER INFORMATION CONTACT: Thomas F. Granahan, Clerk of Court, United States Court of Appeals for the Armed Forces, 450 E Street, Northwest, Washington, D.C. 20442-0001, telephone (202) 761-1448.

Dated: May 25, 1999

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, DoD

[FR Doc. 99-13699 Filed 5-28-99; 8:45 am]

BILLING CODE 5001-10-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting; Defense Retirement Board of Actuaries

AGENCY: Department of Defense Retirement Board of Actuaries.

ACTION: Notice of meeting.

SUMMARY: A meeting of the board has been scheduled to execute the provisions of Chapter 74, Title 10, United States Code (10 U.S.C. 1464 *et seq.*). The Board shall review DoD actuarial methods and assumptions to be used in the valuation of the Military Retirement System. Persons desiring to: (1) attend the DoD Retirement Board of Actuaries meeting or, (2) make an oral presentation or submit a written statement for consideration at the meeting, must notify Wendie Powell at (703) 696-7400 by July 31, 1999.

Notice of this meeting is required under the Federal Advisory Committee Act.

DATES: August 19, 1999, 1:00 pm to 5:00 pm.

ADDRESSES: The Pentagon, Room 1E801—Room 1.

FOR FURTHER INFORMATION CONTACT: Christopher Doyle, Chief Actuary, DoD Office of the Actuary, 1555 Wilson Boulevard, Suite 701, Arlington, VA 22209-2405, (703) 696-7407.

Dated: May 25, 1999

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, DoD

[FR Doc. 99-13701 Filed 5-28-99; 8:45 am]

BILLING CODE 5001-10-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting; Department of Defense Education Benefits Board of Actuaries

AGENCY: Department of Defense Education Benefits Board of Actuaries.

ACTION: Notice of meeting.

SUMMARY: A meeting of the board has been scheduled to execute the provisions of Chapter 101, Title 10, United States Code (10 U.S.C. 2006 *et seq.*). The Board shall review DoD actuarial methods and assumptions to be used in the valuation of the G.I. Bill. Persons desiring to: (1) attend the DoD Education Benefits Board of Actuaries meeting or, (2) make an oral presentation or submit a written statement for consideration at the meeting must notify Wendie Powell at (703) 696-7400 by July 31, 1999.

Notice of this meeting is required under the Federal Advisory Committee Act.

DATES: August 20, 1999, 10:00 a.m. to 1:00 p.m.

ADDRESSES: The Pentagon, Room 1E801—Room 1.

FOR FURTHER INFORMATION CONTACT: Christopher Doyle, Chief Actuary, DoD Office of the Actuary, 1555 Wilson Boulevard, Suite 701, Arlington, VA 22209-2405, (703) 696-7407.

Dated: May 25, 1999

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, DoD

[FR Doc. 99-13702 Filed 5-28-99; 8:45 am]

BILLING CODE 5001-10-M

DEPARTMENT OF DEFENSE

Defense Security Service

Privacy Act of 1974; System of Records

AGENCY: Defense Security Service, DoD.

ACTION: Notice to delete and transfer systems of records.

SUMMARY: The Defense Security Service (DSS) is taking responsibility for three existing Privacy Act systems of records notices formerly under the cognizance of the Office of the Secretary of Defense. The three notices will be added to the DSS inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. Administrative changes have been made to the notices.

DSS is also deleting two systems of records from its inventory.

DATES: The actions will be effective on July 1, 1999, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to Office of the General Counsel, Defense Security Service, 1340 Braddock Place, Alexandria, VA 22314-1651.

FOR FURTHER INFORMATION CONTACT: Mr. Leslie Blake (703) 325-9450.

SUPPLEMENTARY INFORMATION: The Defense Security Service notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

Dated: May 25, 1999.

L.M. BYNUM,

Alternate OSD Federal Register Liaison Officer, Department of Defense

DELETIONS
DUSDP 06

SYSTEM NAME:

Defense Personnel Security Research and Education Center Research Files (February 22, 1993, 58 FR 10227).

Reason: System of records is now under the cognizance of the Defense Security Service. See Defense Security Service system of records notice V5-06, entitled Security Research Center Research Files.

DUSDP 07

SYSTEM NAME:

PERSEREC Espionage Database (February 22, 1993, 58 FR 10227)

Reason: System of records notice is now under the cognizance of the Defense Security Service. See Defense Security Service system of records notice V5-05, entitled Security Research Center Espionage Database.

DUSDP 09**SYSTEM NAME:**

PERSEREC Export Violations Database (September 22, 1993, 58 FR 49287)

Reason: System of records notice is now under the cognizance of the Defense Security Service. See Defense Security Service system of records notice V5-07, entitled Security Research Center Export Violations Database.

V4-01**SYSTEM NAME:**

Personnel Records (February 22, 1993, 58 FR 10904).

Reason: These records are covered under Office of Personnel Management Government-Wide systems of records notices.

V4-12**SYSTEM NAME:**

DSS Employee Assistance Program Records (February 22, 1993, 58 FR 10904).

Reason: This system was retired several years ago and all records/files were destroyed.

**TRANSFERRED NOTICES
V5-05****SYSTEM NAME:**

Security Research Center Espionage Database.

SYSTEM LOCATION:

Defense Security Service, Security Research Center, 99 Pacific Street, Building 455E, Monterey, CA 93940-2481.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have been arrested and convicted of espionage or related offense; those who have been prosecuted for espionage who committed suicide before trial or sentencing; and those arrested or under warrant for arrest for espionage who were not prosecuted because of death, suicide, or defection.

CATEGORIES OF RECORDS IN THE SYSTEM:

Background information including individual's name, Social Security Number, date of birth, city/state/country of birth, education, marital status, gender, race, civilian or military member, rank (if military), security clearance (if applicable), years of federal service (if applicable), occupational category, job organization and location, age began espionage, first espionage contact, whether volunteered or recruited, receiving country, payment (if any), foreign relatives (if any).

motivation-related, substance abuse (if applicable), date of arrest, arresting agency, date of sentence, sentence, and duration of espionage. Sources for records are newspaper and magazine articles, the biographies of spies, and similar open source works are included in paper files. Some of the missing variables have been filled in using information supplied by the agencies that investigated the case.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; E.O. 9397 (SSN); DoDD 5210.79, Defense Personnel Security Research and Education Center; and ASD(C) October 31, 1991 memo, Subject: Request for Exemption from DoD Directive 5200.27

PURPOSE(S):

To analyze factors which may contribute to acts of espionage and assemble a body of knowledge useful to improved personnel security procedures. This information will permit examination of espionage trends and will help identify personal and situational variables of interest to policy-makers and others concerned with personnel security issues.

Aggregate statistics will be reported to DoD and other Government agencies in a technical report prepared from open-sources and containing some illustrative material mentioning some of the more famous cases by name.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of DSS' compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Maintained on paper, computer and computer output products, and in microform.

RETRIEVABILITY:

Records may be retrieved by name and Social Security Number.

SAFEGUARDS:

Records are stored under lock and key in secure containers, and in a computer system with intrusion safeguards.

RETENTION AND DISPOSAL:

Analyses and research reports are permanent and will be transferred to the National Archives after 25 years; unneeded records will be shredded, erased or degaussed when no longer required for the project.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Security Research Center, 99 Pacific Street, Building 455E, Monterey, CA 93940-2481.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to Director, Security Research Center, 99 Pacific Street, Building 455E, Monterey, CA 93940-2481.

The inquiry should include full name and Social Security Number.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address a written request to Defense Security Service, Office of FOI and PA, 1340 Braddock Place, Alexandria, VA 22314-1651.

The inquiry must include name and Social Security Number.

CONTESTING RECORD PROCEDURES:

DSS' rules for accessing records, contesting contents, and appealing initial agency determinations are contained in DSS Regulation 01-13: 32 CFR part 321; or may be obtained from the Defense Security Service, Office of FOI and PA, 1340 Braddock Place, Alexandria, VA 22314-1651.

RECORD SOURCE CATEGORIES:

Information is obtained from newspaper and magazine articles and similar open source documents. Some of the missing variables were filled in using information supplied by the agencies that investigated the case.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

55-06**SYSTEM NAME:**

Security Research Center Research Files

SYSTEM LOCATION:

Defense Security Service, Security Research Center, 99 Pacific Street, Building 455E, Monterey, CA 93940-2481;

Defense Manpower Data Center, 400 Gilling Road, Seaside, CA 93955-6771; and

Data Center, Naval Postgraduate School, Monterey, CA 93943.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former Department of Defense (DoD) civilian employees, military members, and DoD contractor employees who have had or applied for security clearances.

CATEGORIES OF RECORDS IN THE SYSTEM:

Lists of cleared individuals, and data derived from DD Forms 398 and 398-2; Standard Forms 85 and 86; and credit, criminal history and other database and sources checked during the course of background investigations; background investigations; responses from interviews and questionnaires.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

50 U.S.C. 781-887, Internal Security Act of 1950; E.O. 9397 (SSN); E.O. 10450, Security Requirements for Government Employment; E.O. 10865, Safeguarding Classified Information Within Industry; E.O. 12333, United States Intelligence Activities; E.O. 12958, Classified National Security Information; and 5 U.S.C. 301, Departmental Regulations, which authorizes DoD Directive 5210.79, Defense Personnel Security Research and Education Center, and DoD Regulation 5200.2-R, DoD Personnel Security Program Regulation.

PURPOSE(S):

To perform research and analyses for (1) evaluating and improving DoD personnel security procedures, programs, and policies; (2) assisting in providing training, instruction, and advice on personnel security subjects for DoD Components; (3) encouraging cooperative research within and among DoD Components on projects having DoD-wide implications in order to avoid duplication; (4) addressing items of special interest to personnel security officials within DoD Components; and (5) identifying areas in the personnel security field that warrant more intense scrutiny.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To Federal, State, and local government agencies, if necessary, to obtain information from them, which will assist DoD/DSS in identifying areas in the personnel security field, that may warrant additional training, instruction, research, or more intense scrutiny. This

would typically involve obtaining nationwide statistical data or relevant information on a specific security issue (i.e. financial, criminal, alcohol, etc.) that could be used to assist an investigator or adjudicator in evaluating an individual's conduct.

To the General Services Administration and National Archives and Records Administration for records management inspections authorized by 44 U.S.C. 2904 and 2906.

The 'Blanket Routine Uses' set forth at the beginning of DSS' compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Maintained on paper, computer and computer output products, and in microform.

RETRIEVABILITY:

Records may be retrieved by name, Social Security Number, or military service number.

SAFEGUARDS:

Records are stored under lock and key, in secure containers, or on electronic media with intrusion safeguards. Research results are not identifiable to any specific individual.

RETENTION AND DISPOSAL:

Information is retained for the life of the research project. When no longer needed for the project, paper records are shredded and computer media are erased or degaussed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Security Research Center, 99 Pacific Street, Building 455E, Monterey, CA 93940-2481.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Director, Defense Personnel Security Research and Education Center, 99 Pacific Street, Building 455E, Monterey, CA 93940-2481.

The individual should provide sufficient proof of identity such as full name, Social Security Number, date and place of birth, military service number (if service was before 1968), military or civilian status while associated with the Department of Defense, place and data of DoD or contractor employment, or other information verifiable from the record itself.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of record should address written inquiries to the Defense Security Service, Office of FOI and PA, 1340 Braddock Place, Alexandria, VA 22314-1651.

The individual should provide sufficient proof of identity such as full name, Social Security Number, date and place of birth, military service number (if service was before 1968), military or civilian status while associated with the Department of Defense, place and data of DoD or contractor employment, or other information verifiable from the record itself.

CONTESTING RECORD PROCEDURES:

DSS' rules for accessing records, contesting contents, and appealing initial agency determinations are contained in DSS Regulation 01-13; 32 CFR part 321; or may be obtained from the Defense Security Service, Office of FOI and PA, 1340 Braddock Place, Alexandria, VA 22314-1651.

RECORD SOURCE CATEGORIES:

Information is obtained from the Defense Clearance and Investigative Index, military records, DoD civilian employment and military personnel records, Defense Security Service records, a records of the Departments of Justice and Treasury, and interviews with and questionnaires completed by record subjects.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

V5-07**SYSTEM NAME:**

Security Research Center Export Violations Database.

SYSTEM LOCATION:

Defense Security Service, Security Research Center, 99 Pacific Street, Building 455E, Monterey, CA 93940-2481.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have been convicted of violating U.S. export control laws.

CATEGORIES OF RECORDS IN THE SYSTEM:

Extracts of reports, court records, newspaper, magazine, and other open source materials.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; DoDD 5210.79, Defense Personnel Security Research and Education Center; and ASD(C3I) July 20, 1993 memo, Subject: Exemption from DoD Directive 5200.27.

PURPOSE(S):

To analyze factors which may contribute to acts of illegal technology transfer in violation of U.S. export controls and to assemble a body of knowledge useful for improving security procedures. This information will permit examination of trends in illegal technology transfer since 1981 and help identify personal and situational variables of interest to policy makers and others concerned with counteracting export control violations. Aggregate statistics will be reported in a technical report. The report will include some vignettes of the more famous cases, using the individual's name, based on material found in open sources.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of DSS' compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper, computer and computer output products, and in microform.

RETRIEVABILITY:

Records are retrieved by individual's name.

SAFEGUARDS:

Records are stored under lock and key in secure containers, and in a computer system with intrusion safeguards.

RETENTION AND DISPOSAL:

Analyses and research reports are permanent and will be transferred to the National Archives after 25 years; database information will be retained for five years or until no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Security Research Center, 99 Pacific Street, Building 455E, Monterey, CA 93940-2481.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to Director, Security Research Center, 99 Pacific

Street, Building 455E, Monterey, CA 93940-2481.

The inquiry should include full name.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address a written request to Defense Security Service, Office of FOI and PA, 1340 Braddock Place, Alexandria, VA 22314-1651.

The inquiry must include full name.

CONTESTING RECORD PROCEDURES:

DSS' rules for accessing records, contesting contents, and appealing initial agency determinations are contained in DSS Regulation 01-13; 32 CFR part 321; or may be obtained from Defense Security Service, Office of FOI and PA, 1340 Braddock Place, Alexandria, VA 22314-1651.

RECORD SOURCE CATEGORIES:

Justice Department Export Control Cases listing, newspaper and magazine articles and other open source documents.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 99-13704 Filed 5-28-99; 8:45 am]

BILLING CODE 5001-10-F

DEPARTMENT OF DEFENSE**Department of the Army**

Availability of U.S. Patents for Non-Exclusive, Exclusive, or Partially-Exclusive Licensing

AGENCY: Army Research Laboratory, DOD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6, announcement is made of the availability of the following U.S. patents for non-exclusive, partially exclusive or exclusive licensing. All of the listed patents have been assigned to the United States of America as represented by the Secretary of the Army, Washington, DC.

These patents covers a wide variety of technical arts including: An ice detection sensor and an ultra-wide bandwidth dish antenna.

Under the authority of section 11(a)(2) of the Federal Technology Transfer Act of 1986 (Pub. L. 99-502) and section 207 of Title 35, United States Code, the Department of the Army represented by the U.S. Army Research Laboratory wish to license the U.S. patents listed below in a non-exclusive, exclusive or partially exclusive manner to any party

interested in manufacturing, using, and/or selling devices or processes covered by these patents.

Title: Ice Detection Sensor.

Inventor: Russel DeAnna.

Patent Number: 5,886,256.

Issued Date: March 23, 1999.

Title: Ultra-Wide Bandwidth Dish Antenna.

Inventor: John W. McCorkle.

Patent Number: 5,880,699.

Issued Date: March 9, 1999.

FOR FURTHER INFORMATION CONTACT:

Norma Cammaratta, Technology Transfer Office, AMSRL-CS-TT, U.S. Army Research Laboratory, 2800 Powder Mill Road, Adelphi, MD 20783-1197, tel: (301) 394-2952; fax: (301) 394-5818.

SUPPLEMENTARY INFORMATION: None.

Gregory D. Showalter,

Army Federal Register Liaison Officer

[FR Doc. 99-13734 Filed 5-28-99; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF DEFENSE**Department of the Army**

Availability of U.S. Patents for Non-Exclusive, Exclusive, or Partially-Exclusive Licensing

AGENCY: U.S. Army Research Laboratory, Adelphi, Maryland.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6, announcement is made of the availability of the following U.S. patent for non-exclusive, partially exclusive or exclusive licensing. The listed patent has been assigned to the United States of America as represented by the Secretary of the Army, Washington, DC.

This patent covers a wide variety of technical arts including: An electromagnetic target generator used to simulate a radar target.

Under the authority of Section 11(a)(2) of the Federal Technology Transfer Act of 1986 (Pub. L. 99-502) and Section 207 of Title 35, United States Code, the Department of the Army as represented by the U.S. Army Research Laboratory wish to license the U.S. patent listed below in a non-exclusive, exclusive or partially exclusive manner to any party interested in manufacturing, using, and/or selling devices or processes covered by this patent.

Title: Electromagnetic Target Generator.

Inventors: Klyte G. Mills, Thomas Maxwell, Elliot C. Bergsagel and Robert K. Richardson.

Patent Number: 5,892,479.

Issued Date: April 6, 1999.

FOR FURTHER INFORMATION CONTACT:

Michael Rausa, Technology Transfer Office, AMSRL-CS-TT, U.S. Army Research Laboratory, Aberdeen Proving Ground, MD 21005-5055 tel: (410) 278-5028; fax: (410) 278-5820.

SUPPLEMENTARY INFORMATION: None.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 99-13735 Filed 5-28-99; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Privacy Act of 1974; Systems of Records

AGENCY: Defense Logistics Agency, DOD.

ACTION: Notice to alter a system of records.

SUMMARY: The Defense Logistics Agency proposes to alter a system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This action will be effective without further notice on July 1, 1999, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: CAAR, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060-6221.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Salus at (703) 767-6183.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on May 12, 1999, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A-130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: May 25, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

S322.10 DMDC

SYSTEM NAME:

Defense Manpower Data Center Data Base (September 14, 1998, 63 FR 49095).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with 'Primary location: Naval Postgraduate School Computer Center, Naval Postgraduate School, Monterey, CA 93943-5000.

Back-up location: Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955-6771.'

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Paragraph 1a, add to end of entry 'and their family members.'

Paragraph 4d, delete 'of the active duty and veteran population' at the end of the sentence and replace with 'of active duty, reserve, and retired personnel or veterans, to include family members.'

Paragraph 20, first sentence, delete 'of the active duty and veteran population' and replace with 'of active duty, reserve, and retired personnel or veterans, to include family members.'

* * * * *

SAFEGUARDS:

Delete entry and replace with 'Access to personal information at both locations is restricted to those who require the records in the performance of their official duties. Access to personal information is further restricted by the use of passwords which are changed periodically. Physical entry is restricted by the use of locks, guards, and administrative procedures.'

* * * * *

S322.10 DMDC

SYSTEM NAME:

Defense Manpower Data Center Data Base.

SYSTEM LOCATION:

Primary location: Naval Postgraduate School Computer Center, Naval Postgraduate School, Monterey, CA 93943-5000.

Back-up location: Defense Manpower Data Center, DoD Center Monterey Bay,

400 Gigling Road, Seaside, CA 93955-6771.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Army, Navy, Air Force and Marine Corps officer and enlisted personnel who served on active duty from July 1, 1968, and after or who have been a member of a reserve component since July 1975; retired Army, Navy, Air Force, and Marine Corps officer and enlisted personnel; active and retired Coast Guard personnel; active and retired members of the commissioned corps of the National Oceanic and Atmospheric Administration; participants in Project 100,000 and Project Transition, and the evaluation control groups for these programs. All individuals examined to determine eligibility for military service at an Armed Forces Entrance and Examining Station from July 1, 1970, and later.

DoD civilian employees since January 1, 1972.

All veterans who have used the GI Bill education and training employment services office since January 1, 1971. All veterans who have used GI Bill education and training entitlements, who visited a state employment service office since January 1, 1971, or who participated in a Department of Labor special program since July 1, 1971. All individuals who ever participated in an educational program sponsored by the U.S. Armed Forces Institute and all individuals who ever participated in the Armed Forces Vocational Aptitude Testing Programs at the high school level since September 1969.

Individuals who responded to various paid advertising campaigns seeking enlistment information since July 1, 1973; participants in the Department of Health and Human Services National Longitudinal Survey.

Individuals responding to recruiting advertisements since January 1987; survivors of retired military personnel who are eligible for or currently receiving disability payments or disability income compensation from the Department of Veteran Affairs; surviving spouses of active or retired deceased military personnel; 100% disabled veterans and their survivors; survivors of retired Coast Guard personnel; and survivors of retired officers of the National Oceanic and Atmospheric Administration who are eligible for or are currently receiving Federal payments due to the death of the retiree.

Individuals receiving disability compensation from the Department of Veteran Affairs or who are covered by a Department of Veteran Affairs'

insurance or benefit program; dependents of active duty military retirees; selective service registrants.

Individuals receiving a security background investigation as identified in the Defense Central Index of Investigation. Former military and civilian personnel who are employed by DoD contractors and are subject to the provisions of 10 U.S.C. 2397.

All Federal Civil Service employees.

All non-appropriated funded individuals who are employed by the Department of Defense.

Individuals who were or may have been the subject of tests involving chemical or biological human-subject testing; and individuals who have inquired or provided information to the Department of Defense concerning such testing.

CATEGORIES OF RECORDS IN THE SYSTEM:

Computerized personnel/employment/pay records consisting of name, Service Number, Selective Service Number, Social Security Number, compensation data, demographic information such as home town, age, sex, race, and educational level; civilian occupational information; civilian and military acquisition work force warrant location, training and job specialty information; military personnel information such as rank, assignment/deployment, length of service, military occupation, aptitude scores, post-service education, training, and employment information for veterans; participation in various inservice education and training programs; military hospitalization and medical treatment, immunization, and pharmaceutical dosage records; home and work addresses; and identities of individuals involved in incidents of child and spouse abuse, and information about the nature of the abuse and services provided.

CHAMPUS claim records containing enrollee, patient and health care facility, provided data such as cause of treatment, amount of payment, name and Social Security or tax identification number of providers or potential providers of care.

Selective Service System registration data.

Department of Veteran Affairs disability payment records.

Credit or financial data as required for security background investigations.

Criminal history information on individuals who subsequently enter the military.

Office of Personnel Management (OPM) Central Personnel Data File (CPDF), an extract from OPM/GOVT-1, General Personnel Records, containing

employment/personnel data on all Federal employees consisting of name, Social Security Number, date of birth, sex, work schedule (full-time, part-time, intermittent), annual salary rate (but not actual earnings), occupational series, position occupied, agency identifier, geographic location of duty station, metropolitan statistical area, and personnel office identifier. Extract from OPM/CENTRAL-1. Civil Service Retirement and Insurance Records, including postal workers covered by Civil Service Retirement, containing Civil Service Claim number, date of birth, name, provision of law retired under, gross annuity, length of service, annuity commencing date, former employing agency and home address. These records provided by OPM for approved computer matching.

Non-appropriated fund employment/personnel records consist of Social Security Number, name, and work address.

Military drug test records containing the Social Security Number, date of specimen collection, date test results reported, reason for test, test results, base/area code, unit, service, status (active/reserve), and location code of testing laboratory.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 5 U.S.C. App. 3 (Pub.L. 95-452, as amended (Inspector General Act of 1978)); 10 U.S.C. 136, Under Secretary of Defense for Personnel and Readiness; 10 U.S.C. 2358, Research and Development Projects; and E.O. 9397 (SSN).

PURPOSE(S):

The purpose of the system of records is to provide a single central facility within the Department of Defense to assess manpower trends, support personnel and readiness functions, to perform longitudinal statistical analyses, identify current and former DoD civilian and military personnel for purposes of detecting fraud and abuse of pay and benefit programs, to register current and former DoD civilian and military personnel and their authorized dependents for purposes of obtaining medical examination, treatment or other benefits to which they are qualified, and to collect debts owed to the United States Government and state and local governments.

Information will be used by agency officials and employees, or authorized contractors, and other DoD Components in the preparation of the histories of human chemical or biological testing or exposure; to conduct scientific studies or medical follow-up programs; to

respond to Congressional and Executive branch inquiries; and to provide data or documentation relevant to the testing or exposure of individuals.

All records in this record system are subject to use in authorized computer matching programs within the Department of Defense and with other Federal agencies or non-Federal agencies as regulated by the Privacy Act of 1974, as amended, (5 U.S.C. 552a).

Military drug test records will be maintained and used to conduct longitudinal, statistical, and analytical studies and computing demographic reports on military personnel. No personal identifiers will be included in the demographic data reports. All requests for Service-specific drug testing demographic data will be approved by the Service designated drug testing program office. All requests for DoD-wide drug testing demographic data will be approved by the DoD Coordinator for Drug Enforcement Policy and Support, 1510 Defense Pentagon, Washington, DC 20301-1510.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

1. To the Department of Veteran Affairs (DVA):

a. To provide military personnel and pay data for present and former military personnel for the purpose of evaluating use of veterans benefits, validating benefit eligibility and maintaining the health and well being of veterans and their family members.

b. To provide identifying military personnel data to the DVA and its insurance program contractor for the purpose of notifying separating eligible Reservists of their right to apply for Veteran's Group Life Insurance coverage under the Veterans Benefits Improvement Act of 1996 (38 U.S.C. 1968).

c. To register eligible veterans and their dependents for DVA programs.

d. To conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a), for the purpose of:

(1) Providing full identification of active duty military personnel, including full-time National Guard/Reserve support personnel, for use in the administration of DVA's Compensation and Pension benefit program. The information is used to

determine continued eligibility for DVA disability compensation to recipients who have returned to active duty so that benefits can be adjusted or terminated as required and steps taken by DVA to collect any resulting over payment (38 U.S.C. 5304(c)).

(2) Providing military personnel and financial data to the Veterans Benefits Administration, DVA for the purpose of determining initial eligibility and any changes in eligibility status to insure proper payment of benefits for GI Bill education and training benefits by the DVA under the Montgomery GI Bill (Title 10 U.S.C., Chapter 1606 – Selected Reserve and Title 38 U.S.C., Chapter 30 – Active Duty). The administrative responsibilities designated to both agencies by the law require that data be exchanged in administering the programs.

(3) Providing identification of reserve duty, including full-time support National Guard/Reserve military personnel, to the DVA, for the purpose of deducting reserve time served from any DVA disability compensation paid or waiver of VA benefit. The law (10 U.S.C. 12316) prohibits receipt of reserve pay and DVA compensation for the same time period, however, it does permit waiver of DVA compensation to draw reserve pay.

(4) Providing identification of former active duty military personnel who received separation payments to the DVA for the purpose of deducting such repayment from any DVA disability compensation paid. The law requires recoupment of severance payments before DVA disability compensation can be paid (10 U.S.C. 1174).

(5) Providing identification of former military personnel and survivor's financial benefit data to DVA for the purpose of identifying military retired pay and survivor benefit payments for use in the administration of the DVA's Compensation and Pension program (38 U.S.C. 5106). The information is to be used to process all DVA award actions more efficiently, reduce subsequent overpayment collection actions, and minimize erroneous payments.

2. To the Office of Personnel Management (OPM):

a. Consisting of personnel/employment/financial data for the purpose of carrying out OPM's management functions. Records disclosed concern pay, benefits, retirement deductions and any other information necessary for those management functions required by law (Pub.L. 83-598, 84-356, 86-724, 94-455 and 5 U.S.C. 1302, 2951, 3301, 3372, 4118, 8347).

b. To conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a) for the purpose of:

(1) Exchanging personnel and financial information on certain military retirees, who are also civilian employees of the Federal government, for the purpose of identifying those individuals subject to a limitation on the amount of military retired pay they can receive under the Dual Compensation Act (5 U.S.C. 5532), and to permit adjustments of military retired pay by the Defense Finance and Accounting Service and to take steps to recoup excess of that permitted under the dual compensation and pay cap restrictions.

(2) Exchanging personnel and financial data on civil service annuitants (including disability annuitants under age 60) who are reemployed by DoD to insure that annuities of DoD reemployed annuitants are terminated where applicable, and salaries are correctly offset where applicable as required by law (5 U.S.C. 8331, 8344, 8401 and 8468).

(3) Exchanging personnel and financial data to identify individuals who are improperly receiving military retired pay and credit for military service in their civil service annuities, or annuities based on the 'guaranteed minimum' disability formula. The match will identify and/or prevent erroneous payments under the Civil Service Retirement Act (CSRA) 5 U.S.C. 8331 and the Federal Employees' Retirement System Act (FERSA) 5 U.S.C. 8411. DoD's legal authority for monitoring retired pay is 10 U.S.C. 1401.

(4) Exchanging civil service and Reserve military personnel data to identify those individuals of the Reserve forces who are employed by the Federal government in a civilian position. The purpose of the match is to identify those particular individuals occupying critical positions as civilians and cannot be released for extended active duty in the event of mobilization. Employing Federal agencies are informed of the reserve status of those affected personnel so that a choice of terminating the position or the reserve assignment can be made by the individual concerned. The authority for conducting the computer match is contained in E.O. 11190, Providing for the Screening of the Ready Reserve of the Armed Services.

3. To the Internal Revenue Service (IRS) for the purpose of obtaining home addresses to contact Reserve component members for mobilization purposes and for tax administration. For the purpose of conducting aggregate statistical

analyses on the impact of DoD personnel of actual changes in the tax laws and to conduct aggregate statistical analyses to lifestream earnings of current and former military personnel to be used in studying the comparability of civilian and military pay benefits. To aid in administration of Federal Income Tax laws and regulations, to identify non-compliance and delinquent filers.

4. To the Department of Health and Human Services (DHHS):

a. To the Office of the Inspector General, DHHS, for the purpose of identification and investigation of DoD employees and military members who may be improperly receiving funds under the Aid to Families of Dependent Children Program.

b. To the Office of Child Support Enforcement, Federal Parent Locator Service, DHHS, pursuant to 42 U.S.C. 653 and 653a; to assist in locating individuals for the purpose of establishing parentage; establishing, setting the amount of, modifying, or enforcing child support obligations; or enforcing child custody or visitation orders; and for conducting computer matching as authorized by E.O. 12953 to facilitate the enforcement of child support owed by delinquent obligors within the entire civilian Federal government and the Uniformed Services work force (active and retired). Identifying delinquent obligors will allow State Child Support Enforcement agencies to commence wage withholding or other enforcement actions against the obligors.

Note 1: Information requested by DHHS is not disclosed when it would contravene U.S. national policy or security interests (42 U.S.C. 653(e)).

Note 2: Quarterly wage information is not disclosed for those individuals performing intelligence or counter-intelligence functions and a determination is made that disclosure could endanger the safety of the individual or compromise an ongoing investigation or intelligence mission (42 U.S.C. 653(n)).

c. To the Health Care Financing Administration (HCFA), DHHS for the purpose of monitoring HCFA reimbursement to civilian hospitals for Medicare patient treatment. The data will ensure no Department of Defense physicians, interns or residents are counted for HCFA reimbursement to hospitals.

d. To the Center for Disease Control and the National Institutes of Mental Health, DHHS, for the purpose of conducting studies concerned with the health and well being of active duty, reserve, and retired personnel or veterans, to include family members.

5. To the Social Security Administration (SSA):

a. To the Office of Research and Statistics for the purpose of conducting statistical analyses of impact of military service and use of GI Bill benefits on long term earnings.

b. To the Bureau of Supplemental Security Income to conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a), for the purpose of verifying information provided to the SSA by applicants and recipients who are retired military members or their survivors for Supplemental Security Income (SSI) benefits. By law (42 U.S.C. 1383) the SSA is required to verify eligibility factors and other relevant information provided by the SSI applicant from independent or collateral sources and obtain additional information as necessary before making SSI determinations of eligibility, payment amounts or adjustments thereto.

6. To the Selective Service System (SSS) for the purpose of facilitating compliance of members and former members of the Armed Forces, both active and reserve, with the provisions of the Selective Service registration regulations (50 U.S.C. App. 451 and E.O. 11623).

7. To DoD Civilian Contractors and grantees for the purpose of performing research on manpower problems for statistical analyses.

8. To the Department of Labor (DOL) to reconcile the accuracy of unemployment compensation payments made to former DoD civilian employees and military members by the states. To the Department of Labor to survey military separations to determine the effectiveness of programs assisting veterans to obtain employment.

9. To the U.S. Coast Guard (USCG) of the Department of Transportation (DOT) to conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a), for the purpose of exchanging personnel and financial information on certain retired USCG military members, who are also civilian employees of the Federal government, for the purpose of identifying those individuals subject to a limitation on the amount of military pay they can receive under the Dual Compensation Act (5 U.S.C. 5532), and to permit adjustments of military retired pay by the U.S. Coast Guard and to take steps to recoup excess of that permitted under the dual compensation and pay cap restrictions.

10. To the Department of Housing and Urban Development (HUD) to provide data contained in this record system that includes the name, Social Security Number, salary and retirement pay for

the purpose of verifying continuing eligibility in HUD's assisted housing programs maintained by the Public Housing Authorities (PHAs) and subsidized multi-family project owners or management agents. Data furnished will be reviewed by HUD or the PHAs with the technical assistance from the HUD Office of the Inspector General (OIG) to determine whether the income reported by tenants to the PHA or subsidized multi-family project owner or management agent is correct and complies with HUD and PHA requirements.

11. To Federal and Quasi-Federal agencies, territorial, state, and local governments to support personnel functions requiring data on prior military service credit for their employees or for job applications. To determine continued eligibility and help eliminate fraud and abuse in benefit programs and to collect debts and over payments owed to these programs. To assist in the return of unclaimed property or assets escheated to states of civilian employees and military member and to provide members and former members with information and assistance regarding various benefit entitlements, such as state bonuses for veterans, etc. Information released includes name, Social Security Number, and military or civilian address of individuals. To detect fraud, waste and abuse pursuant to the authority contained in the Inspector General Act of 1978, as amended (Pub.L. 95-452) for the purpose of determining eligibility for, and/or continued compliance with, any Federal benefit program requirements.

12. To private consumer reporting agencies to comply with the requirements to update security clearance investigations of DoD personnel.

13. To consumer reporting agencies to obtain current addresses of separated military personnel to notify them of potential benefits eligibility.

14. To Defense contractors to monitor the employment of former DoD employees and members subject to the provisions of 41 U.S.C. 423.

15. To financial depository institutions to assist in locating individuals with dormant accounts in danger of reverting to state ownership by escheatment for accounts of DoD civilian employees and military members.

16. To any Federal, state or local agency to conduct authorized computer matching programs regulated by the Privacy Act of 1974, as amended, (5 U.S.C. 552a) for the purposes of identifying and locating delinquent

debtors for collection of a claim owed the Department of Defense or the United States Government under the Debt Collection Act of 1982 (Pub.L. 97-365) and the Debt Collection Improvement Act of 1996 (Pub.L. 104-134).

17. To state and local law enforcement investigative agencies to obtain criminal history information for the purpose of evaluating military service performance and security clearance procedures (10 U.S.C. 2358).

18. To the United States Postal Service to conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a), for the purposes of:

a. Exchanging civil service and Reserve military personnel data to identify those individuals of the Reserve forces who are employed by the Federal government in a civilian position. The purpose of the match is to identify those particular individuals occupying critical positions as civilians and who cannot be released for extended active duty in the event of mobilization. The Postal Service is informed of the reserve status of those affected personnel so that a choice of terminating the position on the reserve assignment can be made by the individual concerned. The authority for conducting the computer match is contained in E.O. 11190, Providing for the Screening of the Ready Reserve of the Armed Forces.

b. Exchanging personnel and financial information on certain military retirees who are also civilian employees of the Federal government, for the purpose of identifying those individuals subject to a limitation on the amount of retired military pay they can receive under the Dual Compensation Act (5 U.S.C. 5532), and permit adjustments to military retired pay to be made by the Defense Finance and Accounting Service and to take steps to recoup excess of that permitted under the dual compensation and pay cap restrictions.

19. To the Armed Forces Retirement Home (AFRH), which includes the United States Soldier's and Airmen's Home (USSAH) and the United States Naval Home (USNH) for the purpose of verifying Federal payment information (military retired or retainer pay, civil service annuity, and compensation from the Department of Veterans Affairs) currently provided by the residents for computation of their monthly fee and to identify any unreported benefit payments as required by the Armed Forces Retirement Home Act of 1991, Pub.L. 101-510 (24 U.S.C. 414).

20. To Federal and Quasi-Federal agencies, territorial, state and local governments, and contractors and grantees for the purpose of supporting

research studies concerned with the health and well being of active duty, reserve, and retired personnel or veterans, to include family members. DMDC will disclose information from this system of records for research purposes when DMDC:

a. has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained;

b. has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring;

c. has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (A) in emergency circumstances affecting the health or safety of any individual, (B) for use in another research project, under these same conditions, and with written authorization of the Department, (C) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (D) when required by law;

d. has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

21. To the Educational Testing Service, American College Testing, and like organizations for purposes of obtaining testing, academic, socioeconomic, and related demographic data so that analytical personnel studies of the Department of Defense civilian and military workforce can be conducted.

Note 3: Data obtained from such organizations and used by DoD does not contain any information which identifies the individual about whom the data pertains.

The 'Blanket Routine Uses' set forth at the beginning of the DLA compilation of record system notices apply to this record system.

Note 4: Military drug test information involving individuals participating in a drug abuse rehabilitation program shall be

confidential and be disclosed only for the purposes and under the circumstances expressly authorized in 42 U.S.C. 290dd-2. This statute takes precedence over the Privacy Act of 1974, in regard to accessibility of such records except to the individual to whom the record pertains. The DLA's 'Blanket Routine Uses' do not apply to these types records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage media.

RETRIEVABILITY:

Retrieved by name, Social Security Number, occupation, or any other data element contained in system.

SAFEGUARDS:

Access to personal information at both locations is restricted to those who require the records in the performance of their official duties. Access to personal information is further restricted by the use of passwords which are changed periodically. Physical entry is restricted by the use of locks, guards, and administrative procedures.

RETENTION AND DISPOSAL:

Disposition pending.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955-6771.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: CAAR, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060-6221.

Written requests should contain the full name, Social Security Number, date of birth, and current address and telephone number of the individual.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address inquiries to the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: CAAR, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060-6221.

Written requests should contain the full name, Social Security Number, date of birth, and current address and telephone number of the individual.

CONTESTING RECORD PROCEDURES:

The DLA rules for accessing records, for contesting contents and appealing initial agency determinations are contained in DLA Regulation 5400.21, 32 CFR part 323, or may be obtained from the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: CAAR, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060-6221.

RECORD SOURCE CATEGORIES:

The military services, the Department of Veteran Affairs, the Department of Education, Department of Health and Human Services, from individuals via survey questionnaires, the Department of Labor, the Office of Personnel Management, Federal and Quasi-Federal agencies, and the Selective Service System.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 99-13705 Filed 5-28-99; 8:45 am]

BILLING CODE 5001-10-F

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Privacy Act of 1974; Systems of Records

AGENCY: Defense Logistics Agency, DOD.

ACTION: Notice to alter a system of records.

SUMMARY: The Defense Logistics Agency proposes to alter a system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This action will be effective without further notice on July 1, 1999, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: CAAR, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060-6221.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Salus at (703) 767-6183.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on May 12, 1999, to the

House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A-130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: May 25, 1999

L.M. Bynum,
Alternate OSD Federal Register Liaison
Officer, Department of Defense

S322.20 DMDC

SYSTEM NAME:

Reenlistment Eligible File (RECRUIT)
(June 25, 1996, 61 FR 32779)

CHANGES:

SYSTEM NAME:

Delete entry and replace with
'Recruitment Eligible File'.

SYSTEM LOCATION:

Delete first paragraph and replace
with 'Primary location: Naval
Postgraduate School Computer Center,
Naval Postgraduate School, Monterey,
CA 93943-5000.'

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

After 'enlisted' insert 'and officer'.
* * *

PURPOSE(S):

Delete entry and replace with 'The
purpose of the system is to assist in
recruiting prior-service personnel.'
* * *

SAFEGUARDS:

Delete entry and replace with 'Access
to data at all locations is restricted to
those who require the records in the
performance of their official duties.
Access is further restricted by the use of
passwords which are changed
periodically. Physical entry is restricted
by the use of locks, guards, and
administrative procedures.'
* * *

S322.20 DMDC

SYSTEM NAME:

Recruitment Eligible File.

SYSTEM LOCATION:

Primary location: Naval Postgraduate
School Computer Center, Naval
Postgraduate School, Monterey, CA
93943-5000.

Back-up file: Defense Manpower Data
Center, DoD Center Monterey Bay, 400
Gigling Road, Seaside, CA 93955-6771.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Former enlisted and officer personnel
of the military services who separated
from active duty since 1971.

CATEGORIES OF RECORDS IN THE SYSTEM:

Computer records consisting of Social
Security Number, name, service, date of
birth and date of separation

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 136, Under Secretary of
Defense for Personnel and Readiness;
and E.O. 9397 (SSN).

PURPOSE(S):

The purpose of the system is to assist
in recruiting prior-service personnel.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures
generally permitted under 5 U.S.C.
552a(b) of the Privacy Act, these records
or information contained therein may
specifically be disclosed outside the
DoD as a routine use pursuant to 5
U.S.C. 552a(b)(3) as follows:

Any record may be disclosed to law
enforcement or investigatory authorities
for investigation and possible criminal
prosecution, civil court action or
regulatory order. Any record may be
disclosed to Coast Guard recruiters in
the performance of their assigned
duties.

The 'Blanket Routine Uses' set forth at
the beginning of DLA's compilation of
systems of records notices apply to this
system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All records are stored on disc with a
full backup on magnetic tape.

RETRIEVABILITY:

Retrievable by Social Security
Number.

SAFEGUARDS:

Access to data at all locations is
restricted to those who require the
records in the performance of their
official duties. Access is further
restricted by the use of passwords
which are changed periodically.
Physical entry is restricted by the use of
locks, guards, and administrative
procedures.

RETENTION AND DISPOSAL:

Disposition pending.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief, Defense Manpower
Data Center, DoD Center Monterey Bay,

400 Gigling Road, Seaside, CA 93955-
6771.

NOTIFICATION PROCEDURE:

Individuals seeking to determine
whether information about themselves
is contained in this system should
address written inquiries to the Privacy
Act Officer, Defense Logistics Agency,
ATTN: CAAR, 8725 John J. Kingman
Road, Suite 2533, Fort Belvoir, VA
22060-6221.

RECORD ACCESS PROCEDURES:

Individuals seeking access to
information about themselves contained
in this system should address written
inquiries to the Privacy Act Officer,
Defense Logistics Agency, ATTN:
CAAR, 8725 John J. Kingman Road,
Suite 2533, Fort Belvoir, VA 22060-
6221.

Written requests for information
should contain the full name, current
address, telephone number, Social
Security Number, and date of separation
of the individual.

For personal visits, the individual
should be able to provide some
acceptable identification such as
driver's license.

CONTESTING RECORD PROCEDURES:

The DLA rules for accessing records,
for contesting contents and appealing
initial agency determinations are
contained in DLA Regulation 5400.21,
32 CFR part 323, or may be obtained
from the Privacy Act Officer,
Headquarters, Defense Logistics Agency,
ATTN: CAAR, 8725 John J. Kingman
Road, Suite 2533, Fort Belvoir, VA
22060-6221.

RECORD SOURCE CATEGORIES:

The data contained in the system are
obtained from the Army, Navy, Air
Force, Marine Corps, and Coast Guard.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

IFR Doc. 99-13706 Filed 5-28-99; 8:45 am

BILLING CODE 5001-10-F

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent To Prepare Integrated Feasibility Report(s)/Environmental Impact Statement(s) (EIS) for Structural and Non-Structural Flood Control and Environmental Restoration, Lower Platte River and Tributaries, Nebraska

AGENCY: U.S. Army Corps of Engineers,
DoD.

ACTION: Notice of intent.

SUMMARY: Congress authorized the U.S. Army Corps of Engineers (Corps) by resolution of the Committee on Public Works and Transportation on September 28, 1994 to conduct a reconnaissance study along the Lower Platte River and Tributaries, Nebraska in the interest of flood control, environmental restoration, and other purposes. Based on the information and conclusions reached in the reconnaissance report, sufficient water resource problems and needs of national significance in the study area were found to exist to warrant a Federal interest in further study. It was also found that non-Federal sponsors were interested in participating in a cost-shared feasibility study that would address both structural and non-structural flood control measures, and environmental restoration opportunities.

Non-Federal sponsors include the Nebraska Natural Resources Commission, the Lower Platte South Natural Resources District, the Papio-Missouri River Natural Resources District, and the Lower Platte North Natural Resources District. The Lower Platte River Corridor Alliance is participating in study activities.

Five specific locations are being studied in detail for potential structural flood control measures. They include: Clear Creek Levee and Western Sarpy County Levee areas from U.S. Highway 6 upstream to the Douglas/Sarpy County line; the Union Dike area downstream of Fremont, Nebraska; the Sand Creek tributary near Wahoo, Nebraska; and the south Fremont area. Non-structural measures being examined include: flood insurance, flood proofing, flood warning, flood plain zoning, and evacuation and relocation of buildings. In addition, the study is also examining environmental restoration opportunities in the Lower Platte River basin. Each of the five specific locations being studied in detail involve a plan formulation phase in which various flood control alternative plans are given consideration, including non-structural solutions. The "no Corps action" alternative will also be considered.

The Sand Creek tributary element of the study will be accomplished in a separate integrated feasibility report/EIS because of its relationship to a proposed redesign of U.S. Highway 77 scheduled for construction in 2002. An earlier *Federal Register* notice addressing this study element was published on April 8, 1999 and a public scoping meeting was conducted on May 4, 1999 in Wahoo, Nebraska.

The remaining elements of study will either be accomplished in a comprehensive feasibility report/EIS, or

also in individual feasibility reports/EISs if the need is warranted. Some environmental restoration study elements may be accomplished in an environmental restoration report/environmental assessment format.

Scoping/public information meetings to discuss the Lower Platte River and Tributaries studies will be held July 6, 1999 at Mahoney State Park, Sapp Riverview Lodge; July 7, 1999 at the Papio-Missouri River Natural Resources District, 8901 S. 154th Street, Omaha; and July 8, 1999 at the North Bend Civic Auditorium, Main Street, North Bend. All three meetings will be from 6:30–8 p.m. Scoping comments will also be accepted by mail, phone, or email during the preparation of any and all draft reports. Draft reports will be circulated for review and comment.

FOR FURTHER INFORMATION CONTACT: Questions about the study elements should be directed to Robert S. Nebel, Environmental Resources Specialist, Environmental and Economics Section, Planning Branch, U.S. Army Corps of Engineers, 215 North 17th Street, Omaha, Nebraska 68102-4978, phone: (402) 221-4621, email: robert.s.nebel@usace.army.mil.

SUPPLEMENTARY INFORMATION: Environmental restoration needs and opportunities will be investigated that specifically fit the Corps' authorities—ones that restore degraded conditions caused by existing Corps projects (section 1135 of the Water Resources Development Act (WRDA) of 1986); or ones that restore aquatic ecosystem structure and function (section 206 of WRDA 1996) (no relationship to an existing Corps project is required); ones that usually include manipulation of the hydrology in and along bodies of water, including wetlands and riparian areas (section 206 of WRDA 1996); or ones that restore degraded streams, rivers, wetlands and other waterbodies to their natural condition as a means to control flooding, excessive erosion, and sedimentation (section 503 of WRDA 1996).

Candace M. Thomas,
Chief, Environmental and Economics Section
Planning Branch.

[FR Doc. 99-13733 Filed 5-28-99; 8:45 am]

BILLING CODE 3710-62-M

DEPARTMENT OF DEFENSE

Department of the Navy

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy, DoD.

ACTION: Notice to add a system of records.

SUMMARY: The Department of the Navy proposes to add a system of records notice to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This action will be effective on July 1, 1999, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Department of the Navy, PA/FOIA Policy Branch, Chief of Naval Operations (N09B30), 2000 Navy Pentagon, Washington, DC 20350-2000.
FOR FURTHER INFORMATION CONTACT: Mrs. Doris Lama at (202) 685-6545 or DSN 325-6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy's record system notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the *Federal Register* and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act was submitted on May 12, 1999, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A-130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996, (61 FR 6427, February 20, 1996).

Dated: May 25, 1999.

L.M. Bynum,
Alternate OSD Federal Register Liaison
Officer, Department of Defense.

N01770-1

SYSTEM NAME:

Reserve Disability Appellate Records.

SYSTEM LOCATION:

Office of the Judge Advocate General (Code 13), Department of the Navy, Washington Navy Yard, 1322 Patterson Avenue SE, Suite 3000, Washington, DC 20374-5066. Duplicate copies may be maintained by Commander, Naval Reserve Force or Commandant Marine Corps, and medical offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Reserve members of the Navy and Marine Corps who claim to have incurred or aggravated an illness or injury during active or reserve duty.

CATEGORIES OF RECORDS IN THE SYSTEM:

Requests originated by individuals concerned; Chief, Bureau of Medicine

and Surgery historical narratives and opinions concerning the origins of disabilities of individuals; copies of Judge Advocate General determinations; Internal Revenue Service and Social Security Administration Records; and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 1074(a); 37 U.S.C. 204, 206; 50 U.S.C. 403, 2082; and 44 U.S.C. 3101.

PURPOSE(S):

Information is used for appellate review of adverse determinations made by Commander, Naval Reserve Force or Commandant of the Marine Corps concerning the eligibility of reservists to disability benefits. Final determination is provided to the appropriate medical treatment facility, Commandant of the Marine Corps or Commander, Naval Reserve Force. Final determination may be provided to Physical Evaluation Board.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 551(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of system of record notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated and paper records.

RETRIEVABILITY:

Name and year action taken.

SAFEGUARDS:

Files are maintained in file cabinets under the control of authorized personnel during working hours; the office space in which the file cabinets are located is locked outside official working hours. Automated records are password protected.

RETENTION AND DISPOSAL:

Records are maintained in office for 1 year after closure of case and then forwarded to the Washington Federal Records Center, 4205 Suitland Road, Suitland, MD 20409 for storage for 75 years.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Assistant Judge Advocate General (Administrative Law), Office of the Judge Advocate General, Washington Navy Yard, 1322 Patterson Avenue SE, Suite 3000, Washington, DC 20374-5066.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Deputy Assistant Judge Advocate General (Administrative Law), Office of the Judge Advocate General, Washington Navy Yard, 1322 Patterson Avenue SE, Suite 3000, Washington, DC 20374-5066.

The request must be signed by the requesting individual and should contain the full name of the individual concerned and the approximate date on which the appeal was filed. Visits may be made to the Administrative law Division (Code 13), Office of the Judge Advocate General, Suite 7000, Presidential Towers, 2611 South Jefferson Davis Highway, Arlington, VA 22209. Armed Forces' identification card or state driver's license is required for identification.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves should address written inquiries to the Deputy Assistant Judge Advocate General (Administrative Law), Office of the Judge Advocate General, Washington Navy Yard, 1322 Patterson Avenue SE, Suite 3000, Washington, DC 20374-5066.

The request must be signed by the requesting individual and should contain the full name of the individual concerned and the approximate date on which the appeal was filed. Visits may be made to the Administrative law Division (Code 13), Office of the Judge Advocate General, Suite 7000, Presidential Towers, 2611 South Jefferson Davis Highway, Arlington, VA 22209. Armed Forces' identification card or state driver's license is required for identification.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Reserve personnel information is provided by Commander, Naval Reserve Force or Commandant of the Marine Corps, and the individual concerned. Medical opinions may be provided by the Chief, Bureau of Medicine and Surgery. Verification of loss of civilian earnings is provided by the internal Revenue Service and the Social Security Administration.

EXEMPTIONS CLAIMED BY THE SYSTEM:

None.

FR Doc. 99-13707 Filed 5-28-99; 8:45 am

BILLING CODE 5001-10-M

DEPARTMENT OF DEFENSE

Department of the Navy

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy, DOD.

ACTION: Notice to amend record system.

SUMMARY: The Department of the Navy proposes to amend a system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The amendment will be effective on July 1, 1999, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Department of the Navy, PA/FOIA Policy Branch, Chief of Naval Operations (N09B30), 2000 Navy Pentagon, Washington, DC 20350-2000.

FOR FURTHER INFORMATION CONTACT: Mrs. Doris Lama at (202) 685-6545 or DSN 325-6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy's record system notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the *Federal Register* and are available from the address above.

The Department of the Navy proposes to amend a system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The changes to the system of records are not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of new or altered systems reports. The record system being amended is set forth below, as amended, published in its entirety.

Dated: May 25, 1999.

L. M. Bynum.

Alternate OSD Federal Register Liaison
Officer, Department of Defense

N01301-1

SYSTEM NAME:

Judge Advocate General Reporting
Questionnaire (February 22, 1993, 58 FR
10712).

CHANGES:

* * *

SYSTEM LOCATION:

Delete entry and replace with 'Office
of the Judge Advocate General (Code
61), Department of the Navy, 1322
Patterson Avenue SE, Suite 3000,
Washington Navy Yard, Washington, DC
20374-5066.'

* * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with
'Assistant Judge Advocate General (Civil
Law), Office of the Judge Advocate
General, Department of the Navy, 1322
Patterson Avenue SE, Suite 3000,
Washington Navy Yard, Washington, DC
20374-5066.'

* * *

N01301-1

SYSTEM NAME:

Judge Advocate General Reporting
Questionnaire.

SYSTEM LOCATION:

Office of the Judge Advocate General
(Code 61), Department of the Navy, 1322
Patterson Avenue SE, Suite 3000,
Washington Navy Yard, Washington, DC
20374-5066.

**CATEGORIES OF INDIVIDUALS COVERED BY THE
SYSTEM:**

Officers reporting for duty in the
Office of the Judge Advocate General.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, rank, branch of service, date of
rank, date reported, previous duty
station, date detached, Social Security
Number, designator, division
assignment, room number, office phone,
spouse's name, number of dependents,
spouse's employment, dependents
names and ages, home telephone
number, home address, name of officer
relieving, billet sequence code, unit
identification code, place of birth, date
of birth, security clearance, basis,
completed by and date of completion.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 806 and E.O. 9397 (SSN).

PURPOSE(S):

To assist the Judge Advocate General
in assignment of officers within the
Office of the Judge Advocate General.

**ROUTINE USES OF RECORDS MAINTAINED IN THE
SYSTEM, INCLUDING CATEGORIES OF USERS AND
THE PURPOSES OF SUCH USES:**

In addition to those disclosures
generally permitted under 5 U.S.C.
552a(b) of the Privacy Act, these records
or information contained therein may
specifically be disclosed outside the
DoD as a routine use pursuant to 5
U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' that
appear at the beginning of the Navy's
compilation of systems of records
notices apply to this system.

**POLICIES AND PRACTICES FOR STORING,
RETRIEVING, ACCESSING, RETAINING, AND
DISPOSING OF RECORDS IN THE SYSTEM:**

STORAGE:

Paper records are kept in a folder
alphabetically and are stored in a file
cabinet.

RETRIEVABILITY:

Retrieved by officer's name.

SAFEGUARDS:

Records are maintained in a file
cabinet under the control of authorized
personnel during working hours; and
the office space in which the cabinet is
located is locked outside official
working hours.

RETENTION AND DISPOSAL:

Records are destroyed when the
officer is transferred from the Office of
the Judge Advocate General.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Judge Advocate General
(Civil Law), Office of the Judge
Advocate General, Department of the
Navy, 1322 Patterson Avenue SE, Suite
3000, Washington Navy Yard,
Washington, DC 20374-5066.

NOTIFICATION PROCEDURE:

Individuals seeking to determine
whether information about themselves
is contained in this system should
address written inquiries to the
Assistant Judge Advocate General (Civil
Law), Office of the Judge Advocate
General, Department of the Navy, 1322
Patterson Avenue SE, Suite 3000,
Washington Navy Yard, Washington, DC
20374-5066.

The request should contain the full
name of the individual concerned and
must be signed. For personal visits, the
requesting individual should be able to
provide some acceptable identification,
e.g. Armed Forces identification card,
driver's license, etc.

RECORD ACCESS PROCEDURES:

Individuals seeking access to
information about themselves contained
in this system should address written
inquiries to the Assistant Judge
Advocate General (Civil Law), Office of
the Judge Advocate General, Department
of the Navy, 1322 Patterson Avenue SE,
Suite 3000, Washington Navy Yard,
Washington, DC 20374-5066.

The request should contain the full
name of the individual concerned and
must be signed. For personal visits, the
requesting individual should be able to
provide some acceptable identification,
e.g. Armed Forces identification card,
driver's license, etc.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing
records, and for contesting contents and
appealing initial agency determinations
are published in Secretary of the Navy
Instruction 5211.5; 32 CFR part 701; or
may be obtained from the system
manager.

RECORD SOURCE CATEGORIES:

Information submitted by the officer
upon his/her reporting for duty in the
Office of the Judge Advocate General.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N05810-3

SYSTEM NAME:

Appellate Case Tracking System
(ACTS) (February 22, 1993, 58 FR
10774).

CHANGES:

SYSTEM IDENTIFIER:

Delete entry and replace with
'N05814-6'.

* * *

SYSTEM LOCATION:

Delete entry and replace with
'Administrative Support Division, Navy
and Marine Corps Appellate Review
Activity, Office of the Judge Advocate
General, Department of the Navy,
Washington Navy Yard, 716 Sicard
Street SE, Suite 1000, Washington, DC
20374-5047.'

**CATEGORIES OF INDIVIDUALS COVERED BY THE
SYSTEM:**

Delete entry and replace with 'All
individuals who have their appellate
case reviewed by the Navy-Marine
Corps Court of Criminal Appeals and/or
the Court of Appeals for the Armed
Forces.'

* * *

PURPOSE(S):

Delete entry and replace with 'To
track the status of courts-martial cases

appealed to the Navy-Marine Corps Court of Criminal Appeals for the Armed Forces. The system will also be used by the officials and employees of the Department of the Navy to provide management and statistical information to governmental, public, and private organizations and individuals.'

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with Assistant Judge Advocate General (Military Justice), Office of the Judge Advocate General, Department of the Navy, Washington Navy Yard, 716 Sicard Street SE, Suite 1000, Washington, DC 20374-5047.

N05814-6

SYSTEM NAME:

Appellate Case Tracking System (ACTS).

SYSTEM LOCATION:

Administrative Support Division, Navy and Marine Corps Appellate Review Activity, Office of the Judge Advocate General, Department of the Navy, Washington Navy Yard, 716 Sicard Street SE, Suite 1000, Washington, DC 20374-5047.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals who have their appellate case reviewed by the Navy-Marine Corps Court of Criminal Appeals and/or the Court of Appeals for the Armed Forces.

CATEGORIES OF RECORDS IN THE SYSTEM:

Navy appellate case records; additional Navy appellate case information records; and historical Navy appellate case records from 1986 to present. Files contain personal information such as name, rank, Social Security Number, etc., and specific information with regard to the Navy appellate cases.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 866, 867; and E.O. 9397 (SSN).

PURPOSE(S):

To track the status of courts-martial cases appealed to the Navy-Marine Corps Court of Criminal Appeals for the Armed Forces. The system will also be used by the officials and employees of the Department of the Navy to provide management and statistical information to governmental, public, and private organizations and individuals.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on magnetic disk, magnetic tape, computers, and on hard copy forms.

RETRIEVABILITY:

ACTS users obtain information by means of a query or a request for a standard report. Data may be indexed by any data item although the primary search keys are the name, Social Security Number, or the Navy-Marine Corps Court of Criminal Appeals docket number.

SAFEGUARDS:

Access to building is protected by uniformed guards requiring positive identification for admission after hours. The system is protected by the following software features: User account number and password sign-on, data base access authority, data set authority for add and delete, and data item authority for list and update.

RETENTION AND DISPOSAL:

An individual's record is retained on disk and will be available for on-line access for twenty-five years after the close of the individual's case. The record will be purged to magnetic tape after twenty-five years and will be utilized in a batch processing mode.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Judge Advocate General (Military Justice), Office of the Judge Advocate General, Department of the Navy, Washington Navy Yard, 716 Sicard Street SE, Suite 1000, Washington, DC 20374-5047.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system contains information about themselves should address written inquiries to the Administrative Support Division, Navy and Marine Corps Appellate Review Activity, Office of the Judge Advocate General, Department of the Navy,

Washington Navy Yard, 716 Sicard Street SE, Suite 1000, Washington, DC 20374-5047.

The request should contain full name, Social Security Number, and address of the individual concerned and should be signed.

Personal visits may be made to the Administrative Support Division, Navy and Marine Corps Appellate Review Activity, Office of the Judge Advocate General, Department of the Navy, Washington Navy Yard, 716 Sicard Street SE, Suite 1000, Washington, DC 20374-5047. Individuals making such visits should be able to provide some acceptable identification, e.g., Armed Forces' I.D. card, driver's license, etc.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Administrative Support Division, Navy and Marine Corps Appellate Review Activity, Office of the Judge Advocate General, Department of the Navy, Washington Navy Yard, 716 Sicard Street SE, Suite 1000, Washington, DC 20374-5047.

The request should contain full name, Social Security Number, and address of the individual concerned and should be signed.

Personal visits may be made to the Administrative Support Division, Navy and Marine Corps Appellate Review Activity, Office of the Judge Advocate General, Department of the Navy, Washington Navy Yard, 716 Sicard Street SE, Suite 1000, Washington, DC 20374-5047. Individuals making such visits should be able to provide some acceptable identification, e.g., Armed Forces' I.D. card, driver's license, etc.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information in this system comes from the individual's record of trial and supporting documents.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N05815-1

SYSTEM NAME:

Record of Trial of Special Courts-Martial Resulting in Bad Conduct Discharges or Concerning Officers (February 22, 1993, 58 FR 10778).

CHANGES:**SYSTEM IDENTIFIER:**

Delete entry and replace with 'N05813-5'.

SYSTEM LOCATION:

Delete entry and replace with 'Administrative Support Division, Navy and Marine Corps Appellate Review Activity, Office of the Judge Advocate General, Department of the Navy, Washington Navy Yard, 716 Sicard Street SE, Suite 1000, Washington, DC 20374-5047.'

* * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with '5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 865; and 10 U.S.C. 866(b).'

* * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with 'Assistant Judge Advocate General (Military Justice), Office of the Judge Advocate General, Department of the Navy, 716 Sicard Street SE, Suite 1000, Washington, DC 20374-5047.'

* * *

N05813-5

SYSTEM NAME:

Record of Trial of Special Courts-Martial Resulting in Bad Conduct Discharges or Concerning Officers.

SYSTEM LOCATION:

Administrative Support Division, Navy and Marine Corps Appellate Review Activity, Office of the Judge Advocate General, Department of the Navy, Washington Navy Yard, 716 Sicard Street SE, Suite 1000, Washington, DC 20374-5047.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Navy and Marine Corps personnel tried by special courts-martial and awarded a bad conduct discharge, and all Navy and Marine Corps commissioned officers tried by special courts-martial.

CATEGORIES OF RECORDS IN THE SYSTEM:

Special courts-martial which resulted in a bad conduct discharge, or involving commissioned officers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 865; and 10 U.S.C. 866(b).

PURPOSE(S):

To complete appellate review as required under 10 U.S.C. 866(b) and provide central repository accessible to

the public who may request information concerning the appellate review or want copies of individual public records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems of records apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

File folders.

RETRIEVABILITY:

Files are kept by Navy courts-martial number and each case is cross-referenced by an index card which is filed in alphabetical order according to the last name of the individual concerned.

SAFEGUARDS:

Files are maintained in file cabinets and other storage devices under the control of authorized personnel during working hours; the office space in which the file cabinets and storage devices are located is locked outside official working hours.

RETENTION AND DISPOSAL:

Records are maintained in office for three years and then forwarded to the Washington Federal Records Center, 4205 Suitland Road, Suitland, MD 20409 for storage.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Judge Advocate General (Military Justice), Office of the Judge Advocate General, Department of the Navy, 716 Sicard Street SE, Suite 1000, Washington, DC 20374-5047.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system contains information about themselves should address written inquiries to the Division Director, Administrative Support Division, Navy and Marine Corps Appellate Review Activity, Office of the Judge Advocate General, Department of the Navy, Washington Navy Yard, 716 Sicard Street SE, Suite 1000, Washington, DC 20374-5047.

The request should contain the full name and address.

Personal visits may be made to the Administrative Support Division, Navy and Marine Corps Appellate Review Activity, Office of the Judge Advocate General, Washington Navy Yard, 716 Sicard Street SE, Suite 1000, Washington, DC 20374-5047.

Individuals making such visits should be able to provide some acceptable identification, e.g. Armed Forces' identification card, driver's license, etc.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Division Director, Administrative Support Division, Navy and Marine Corps Appellate Review Activity, Office of the Judge Advocate General, Department of the Navy, Washington Navy Yard, 716 Sicard Street SE, Suite 1000, Washington, DC 20374-5047.

The request should contain the full name and address.

Personal visits may be made to the Administrative Support Division, Navy and Marine Corps Appellate Review Activity, Office of the Judge Advocate General, Washington Navy Yard, 716 Sicard Street SE, Suite 1000, Washington, DC 20374-5047. Individuals making such visits should be able to provide some acceptable identification, e.g. Armed Forces' identification card, driver's license, etc.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Special courts-martial proceedings.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N05814-1

SYSTEM NAME:

Summary and Non-BCD Courts-Martial Records (February 22, 1993, 58 FR 10777).

CHANGES:**SYSTEM IDENTIFIER:**

Delete entry and replace with 'N05813-6'.

SYSTEM NAME:

Delete entry and replace with 'Summary and Non-BCD Special Courts-Martial Records of Trial.'

* * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with 'Assistant Judge Advocate General (Military Justice), Office of the Judge Advocate General, Department of the Navy, 716 Sicard Street SE, Suite 1000, Washington Navy Yard, Washington, DC 20374-5047 or appropriate officer having supervisory authority over the naval activity which convened the court-martial.'

N05813-6

SYSTEM NAME:

Summary and Non-BCD Special Courts-Martial Records of Trial.

SYSTEM LOCATION:

Organizational elements of the Department of the Navy. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Navy and Marine Corps enlisted personnel tried by summary courts-martial or by special courts-martial which did not result in a bad conduct discharge (BCD).

CATEGORIES OF RECORDS IN THE SYSTEM:

Summary courts-martial and non-BCD special courts-martial records of trial.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations and 10 U.S.C. 865.

PURPOSE(S):

To complete appellate review as required under 10 U.S.C. 864(a) and provide repositories accessible to the public who may request information concerning the appellate review or want copies of individual public records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

File folders.

RETRIEVABILITY:

Type of courts-martial, date, command which convened the courts-martial, name of individual defendant, and command which completed the supervisory authority's action.

SAFEGUARDS:

Files are maintained in file cabinets and other storage devices under the control of authorized personnel during working hours; the office space in which the file cabinets and storage devices are located is locked outside official working hours.

RETENTION AND DISPOSAL:

Records are retained for two years after final action by officers having supervisory authority over shore activities, and for three months by officers having supervisory authority over fleet activities. At the termination of the appropriate retention period, records are forwarded for storage to the National Personnel Records Center (Military Personnel Records), GSA, 9700 Page Avenue, St. Louis, MO 63132-5100. Records are destroyed 15 years after final action has been taken.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Judge Advocate General (Military Justice), Office of the Judge Advocate General, Department of the Navy, 716 Sicard Street SE, Suite 1000, Washington Navy Yard, Washington, DC 20374-5047 or appropriate officer having supervisory authority over the naval activity which convened the court-martial.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Division Director, Administrative Support Division, Navy-Marine Corps Appellate Review Activity, Office of the Judge Advocate General, Department of the Navy, Office of the Judge Advocate General, Department of the Navy, 716 Sicard Street SE, Suite 1000, Washington Navy Yard, Washington, DC 20374-5047.

The request should include the full name of the individual concerned, the type of courts-martial (summary or special), the name of the command which held the courts-martial, and the date of the courts-martial proceedings. Written requests must be signed by the requesting individual.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Division

Director, Administrative Support Division, Navy-Marine Corps Appellate Review Activity, Office of the Judge Advocate General, Department of the Navy, Office of the Judge Advocate General, Department of the Navy, 716 Sicard Street SE, Suite 1000, Washington Navy Yard, Washington, DC 20374-5047.

The request should include the full name of the individual concerned, the type of courts-martial (summary or special), the name of the command which held the courts-martial, and the date of the courts-martial proceedings. Written requests must be signed by the requesting individual.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Proceedings of summary courts-martial and special courts-martial which did not result in a bad conduct discharge.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N05819-2

SYSTEM NAME:

Article 73 Petitions for New Trial (February 22, 1993, 58 FR 10780).

CHANGES:**SYSTEM IDENTIFIER:**

Delete entry and replace with 'N05814-5'.

SYSTEM LOCATION:

Delete entry and replace with 'Administrative Support Division, Navy and Marine Corps Appellate Review Activity, Office of the Judge Advocate General, Department of the Navy, Washington Navy Yard, 716 Sicard Street SE, Suite 1000, Washington, DC 20374-5047.'

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with 'Navy and Marine Corps personnel who submitted petitions for new trial to the Judge Advocate General within two years after approval of their courts-martial sentence by the convening authority but after their case had been reviewed by the Navy-Marine Corps Court of Criminal Appeals or the Court

of Appeals for the Armed Forces, if appropriate.'

RETENTION AND DISPOSAL:

Delete entry and replace with 'Records are maintained in the office for four years and then destroyed.'

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with 'Assistant Judge Advocate General (Military Justice), Office of the Judge Advocate General, Department of the Navy, Washington Navy Yard, 716 Sicard Street, SE, Suite 1000, Washington, DC 20374-5047.'

N05814-5

SYSTEM NAME:

Article 73 Petitions for New Trial.

SYSTEM LOCATION:

Administrative Support Division, Navy and Marine Corps Appellate Review Activity, Office of the Judge Advocate General, Department of the Navy, Washington Navy Yard, 716 Sicard Street SE, Suite 1000, Washington, DC 20374-5047.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Navy and Marine Corps personnel who submitted petitions for new trial to the Judge Advocate General within two years after approval of their courts-martial sentence by the convening authority but after their case had been reviewed by the Navy-Marine Corps Court of Criminal Appeals or the Court of Appeals for the Armed Forces, if appropriate.

CATEGORIES OF RECORDS IN THE SYSTEM:

The petition for new trial, the forwarding endorsements if the petition was submitted via the chain of command, and the action of the Judge Advocate General on the petition.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Article 73, Uniform Code of Military Justice, (10 U.S.C. 873).

PURPOSE(S):

To provide a record of individual petitions in order to answer inquiries from the individual concerned and to provide additional advice to commands involved when and if such petitions are granted.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records

or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems of records apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders.

RETRIEVABILITY:

Files are kept in alphabetical order according to the last name of the individual concerned.

SAFEGUARDS:

Files are maintained in file cabinets and other storage devices under the control of authorized personnel during working hours; the office space in which the file cabinets and storage devices are located is locked outside official working hours.

RETENTION AND DISPOSAL:

Records are maintained in the office for four years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Judge Advocate General (Military Justice), Office of the Judge Advocate General, Department of the Navy, Washington Navy Yard, 716 Sicard Street, SE, Suite 1000, Washington, DC 20374-5047.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system contains information about themselves should address written inquiries to the family housing office at the military installation that services them.

Request should contain full name, Social Security Number and be signed.

RECORD ACCESS PROCEDURES:

Individuals seeking to determine whether this system contains information about themselves should address written inquiries to the family housing office at the military installation that services them.

Request should contain full name, Social Security Number and be signed.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

The records are comprised of the following source materials: (1) Petitions for new trial; (2) forwarding endorsements thereon by petitioner's commanding officer and convening/supervisory authorities of courts-martial (above information is omitted if petitioner is former service member); and (3) action of the Judge Advocate General on petitions.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N11101-2

SYSTEM NAME:

Family Housing Requirements Survey Record System (May 7, 1999, 64 FR 24619).

CHANGES:

SYSTEM MANAGER(S) AND ADDRESS:

Replace first sentence with 'Naval Facilities Engineering Command, 1322 Patterson Avenue SE, Suite 1000, Washington Navy Yard, Washington, DC 20374-5065.'

N11101-2

SYSTEM NAME:

Family Housing Requirements Survey Record System.

SYSTEM LOCATION:

Military installations with family housing offices. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Officer and enlisted personnel and only key and essential civilian personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Non-individual oriented input documents that reflect local housing assets; family housing survey questionnaires indicating family size, individual preference for housing, housing cost, and indication as to suitability of housing for need of individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations and E.O. 9397 (SSN).

PURPOSE(S):

To determine the housing requirement for the location to support proposed family housing construction, leasing, mobile home spaces and other

military construction programs submitted for OSD support and Congressional approval.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated and paper records.

RETRIEVABILITY:

Social Security Number.

SAFEGUARDS:

Housing files used solely within housing office; tape files used solely within data processing system; and protected by the military installation's security measures. Automated files are password protected.

RETENTION AND DISPOSAL:

Held three years and destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Naval Facilities Engineering Command, 1322 Patterson Avenue SE, Suite 1000, Washington Navy Yard, Washington, DC 20374-5065. Subordinate record holders of questionnaires: Family housing office at military installation.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the family housing office at the military installation that services them.

Request should contain full name, Social Security Number and be signed.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the family housing office at the military installation that services them.

Request should contain full name, Social Security Number and be signed.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and

appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 99-13708 Filed 5-28-99; 8:45 am]

BILLING CODE 5001-10-F

DEPARTMENT OF EDUCATION

National Educational Research Policy and Priorities Board; Meeting

AGENCY: National Educational Research Policy and Priorities Board; Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Educational Research Policy and Priorities Board. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend the meeting.

DATES: June 17 and 18, 1999.

TIME: June 17, 9 a.m. to 5 p.m.; June 18, 9 a.m. to 4:30 p.m.

LOCATION: Room 100, 80 F St., NW, Washington, D.C. 20208-7564.

FOR FURTHER INFORMATION CONTACT: Thelma Leenhouts, Designated Federal Official, National Educational Research Policy and Priorities Board, Washington, D.C. 20208-7564. Tel.: (202) 219-2065; fax: (202) 219-1528; e-mail: Thelma_Leenhouts@ed.gov, or nerppb@ed.gov. The main telephone number for the Board is (202) 208-0692.

SUPPLEMENTARY INFORMATION: The National Educational Research Policy and Priorities Board is authorized by Section 921 of the Educational Research, Development, Dissemination, and Improvement Act of 1994. The Board works collaboratively with the Assistant Secretary for the Office of Educational Research and Improvement (OERI) to forge a national consensus with respect to a long-term agenda for educational research, development, and dissemination, and to provide advice and assistance to the Assistant Secretary in administering the duties of the Office. The meeting is open to the public. On June 17, the Board will elect officers for 1999-2000 and hear a presentation on the interim evaluation of the regional educational laboratories. On June 18,

the Board will have a briefing on "Improving Student Learning: A Strategic Plan for Education Research and Its Utilization" by a representative of the National Research Council, which published the study, and will conduct outstanding business. A final agenda will be available from the Board office on June 19, 1999, and will be posted on the Board's web site, <http://www.ed.gov/offices/OERI/NERPPB/>.

Records are kept of all Board proceedings and are available for public inspection at the office of the National Educational Research Policy and Priorities Board, Suite 100, 80 F St., NW, Washington, D.C. 20208-7564.

Dated: May 25, 1999.

Eve M. Bither,

Executive Director

[FR Doc. 99-13771 Filed 5-28-99; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF EDUCATION

Privacy Act of 1974; System of Records

AGENCY: Department of Education.

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, the Acting Chief Information Officer for the Department of Education publishes this Notice of a New System of Records for the Student Account Manager System, as authorized by the Higher Education Act of 1965, Title IV-A through IV-H, as amended (20 U.S.C. 1092b). This system contains a data base of student accounts containing records of activities relative to Federal loan and grant transactions. The Secretary seeks comments on the proposed routine uses of this system of records.

DATES: Comments on proposed routine uses for this system of records must be received on or before July 1, 1999. The Department filed a report of the new, amended, altered and deleted systems of records, which included this system, with the Chairman of the Committee on Governmental Affairs of the Senate, the Chairman of the Committee on Government Reform and Oversight Operations of the House of Representatives, and the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB) on May 14, 1999. This system of records becomes effective after the 30-day period for OMB review of the system expires on June 14, 1999 unless OMB gives specific notice within the 30 days that the system is not approved for

implementation or requests an additional 10 days for its review.

ADDRESSES: All comments on the proposed routine uses should be addressed to Bill Burrow, Office of Chief Information Officer, Acting Information Management Group Leader, U.S. Department of Education, 400 Maryland Avenue SW., Regional Office Building, Room 5624, Washington, DC 20202-4580. Comments may also be sent through the Internet to: Comments@ed.gov

You must include the term "System of Records" in the subject line of your electronic message.

All comments submitted in response to this notice are available for public inspection, during and after the comment period, in Room 5624, Regional Office Building, 7th and D Streets, SW., Washington, DC, between the hours of 8:00 a.m. and 4:30 p.m., Eastern time, Monday through Friday, except Federal holidays.

On request, the Department supplies an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking docket for this notice. An individual with a disability who wants to schedule an appointment for this type of aid may call (202) 205-9265 or (202) 260-0250. An individual who uses a TDD may call the Federal Information Relay Service at 1-800-877-8339, between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Bill Burrow, Office of Chief Information Officer, Acting Information Management Group Leader, U.S. Department of Education, 400 Maryland Avenue, SW., Room 5624, Washington, DC 20202. Telephone number: (202) 401-0250. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION:

Electronic Access to This Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Portable Document Format (PDF) on the World Wide Web at either of the following sites:

<http://ocfo.ed.gov/fedreg.htm>
<http://www.ed.gov/news.html>

To use PDF you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using PDF, call the U.S. Government Printing Office toll free at 1-888-293-6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219-1511 or, toll-free, 1-800-222-4922. The documents are located under Option G—Files/Announcements, Bulletins and Press Releases.

Note: The Official version of this document is the document published in the **Federal Register**.

Background

The Privacy Act of 1974 (5 U.S.C. 552a(e)(4)) requires the Department to publish in the **Federal Register** this notice of a new system of records. The Department's regulations implementing the Privacy Act of 1974 are contained in the Code of Federal Regulations (CFR) in 34 CFR part 5b.

The Privacy Act of 1974 (Privacy Act), 5 U.S.C. 552a, applies to information about individuals that contains individually identifiable information and that may be retrieved by a unique identifier associated with each individual, such as a name or social security number. The information about each individual is called a "record" and the system, whether manual or computer-driven, is called a "system of records." The Privacy Act requires each agency to publish notices of systems of records in the **Federal Register** and to prepare reports to the Office of Management and Budget (OMB) whenever the agency publishes a new or "altered" system of records.

The Student Account Manager system of records is a part of the Access America for Students pilot project. The pilot project is intended to improve the administration of the Federal loan and grant programs authorized by the Higher Education Act of 1965, title IV—A through IV—H, as amended (20 U.S.C. 1092b).

The Student Account Manager system is being established for three purposes: (1) To give students a single point of contact for information, statements, and customer service concerning their Federal student financial assistance (loans and grants) from various programs and sources; (2) to provide eligible institutions of higher education with a standardized method for the receipt of Title IV student financial

assistance; and (3) to create summary reports for Federal loan and grant funding sources and program offices for loans and grants delivered through the Student Account Manager.

Information in the system includes demographic information identifying the student or borrower, Federal loan and grant funding information, and Federal loan and grant transaction information. The Secretary of Education uses the information in this system to simplify the flow of student financial assistance funds and information to students and schools.

Direct access is restricted to authorized agency and contractor staff in the performance of their official duties. The information is kept in computer mainframe databases at contractor sites in secured buildings. All physical access to the sites of the contractor and the Department of Education where this system of records is maintained is controlled and monitored by security personnel who check each individual entering the building for an employee's or a visitor's badge.

The computer system employed by the Secretary offers a high degree of resistance to tampering and circumvention. This security system limits data access to the Department of Education (ED), agents of ED (including schools and funding sources), and contract staff on a "need to know" basis, and controls individual users' ability to access and alter records within the system. All users of this system are given a unique user ID with a personal identifier.

Dated: May 27, 1999.

Thomas P. Skelly,

Acting Chief Information Officer.

(Catalog of Federal Domestic Assistance Number does not apply.)

The Chief Information Officer of the U.S. Department of Education publishes notice of system 18-11-08, the "Student Account Manager System."

18-11-08

SYSTEM NAME:

Student Account Manager System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION(S):

Program Systems Service, Office of Student Financial Assistance Programs, U.S. Department of Education, Seventh and D Streets, SW., Room 4640, ROB-3, Washington, DC 20202.

National Computer Systems, 2510 North Dodge Street, Iowa City, Iowa 52240.

Total Systems Services, Inc. 6101
Stone Mill Drive, Columbus, GA;
Golden Retriever System, 8 N. Roosevelt
Avenue, Chandler, AZ 85221.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The Student Account Manager System contains student financial assistance records about students and/or borrowers both who have applied for loans under any Title IV Federal loan program and students who have applied for grants under any Title IV Federal grant program.

CATEGORIES OF RECORDS IN THE SYSTEM:

The Student Account Manager System contains records relating to a student and/or borrower's originated awards and disbursements of Title IV financial assistance. The system contains three data element types as outlined below: demographic information, such as student and/or borrower name, mailing and permanent address, e-mail address, current and original Social Security number, phone number, date of birth, student account number, loan and grant funding and award information, including the Title IV code for the school(s) for which students and/or borrowers have requested determinations of Federal financial assistance eligibility, the origination date and I.D., the funding source I.D., loan holder, credit limit or award amount, loan and grant transaction information, including the transaction date, posting date, disbursement amount, acceptance/rejection field, batch number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Higher Education Act of 1965, Title IV-A through IV-H, as amended. (20 U.S.C.1092b).

PURPOSE(S):

This system of records is provided for the purposes of:

(1) Giving students a single point of contact for information, statements, and customer service concerning their Federal student financial assistance (loans and grants) from various programs and sources;

(2) Providing eligible institutions of higher education with a standardized method for the receipt of Title IV student financial assistance; and

(3) Creating summary reports for Federal loan and grant funding sources and program offices for loans and grants delivered through the Student Account Manager.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Department of Education (Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

(1) *Program purposes.* Records may be disclosed for the following program purposes:

(a) To report disbursement activity, disclosures may be made to appropriate guaranty agencies, educational and financial institutions, and Federal agencies.

(b) To deliver Federal student assistance funds to the educational institution at which the student is enrolled, disclosures may be made to that educational institution.

(2) *Disclosure for Use by Other Law Enforcement Agencies.* The Department may disclose information to any Federal, State, local, or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility within the receiving entity's jurisdiction.

(3) *Enforcement disclosures.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, The Department may disclose the relevant records to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or implementing the statute, or executive order, rule, regulation, or order issued pursuant thereto.

(4) *Litigation disclosure and Alternative Dispute Resolution (ADR) Disclosures*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation or ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c), and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department of Education, or any component of the Department; or
(ii) Any Department employee in his or her official capacity; or

(iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee; or

(iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Administrative disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, counsels, representatives and witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

(5) *Employment, Benefit, and Contracting Disclosure.*

(a) *For Decisions by the Department.* The Department may disclose a record to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent records, or to another public authority or professional organization, if necessary to obtain information relevant to a Department decision concerning the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(b) *For Decisions by Other Public Agencies and Professional Organizations.* The Department may disclose a records to a Federal, State, local, or foreign agency or other public authority or professional organization, in connection with the hiring or retention of an employee or other

personnel action, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the record is relevant and necessary to the receiving entity's decision on the matter.

(6) *Employee Grievance, Complaint, or Conduct Disclosure.* The Department may disclose a record in this system of records to another agency of the Federal Government if the record is relevant to one of the following proceedings regarding a present or former employee of the Department: complaint, grievance, discipline or competence determination proceedings. The disclosure may only be made during the course of the proceeding.

(7) *Labor Organization Disclosure.* A component of the Department may disclose records to a labor organization if a contract between the component and a labor organization recognized under Title V of the United States Code, Chapter 71, provides that the Department will disclose personal records relevant to the organization's mission. The disclosures will be made only as authorized by law.

(8) *Freedom of Information Act (FOIA) Advice Disclosure.* The Department may disclose records to the Department of Justice and the Office of Management and Budget if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

(9) *Disclosure to the Department of Justice (DOJ).* The Department may disclose records to the DOJ to the extent necessary for obtaining DOJ advice on any matter relevant to an audit, inspection, or other inquiry related to the programs covered by this system.

(10) *Contract Disclosure.* If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records to those employees. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(11) *Research Disclosure.* The Department may disclose records to a researcher if an appropriate official of the Department determines that the individual or organization to which the disclosure would be made is qualified to carry out specific research related to functions or purposes of this system of records. The official may disclose records from this system of records to

that researcher solely for the purpose of carrying out that research related to the functions or purposes of this system of records. The researcher shall be required to maintain Privacy Act safeguards with respect to the disclosed records.

(12) *Congressional member disclosure.* The Department may disclose information to a member of congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The Member's right to the information is no greater than the right of the individual who requested it.

(13) *Disclosure to the Office of Management and Budget (OMB) for Credit Reform Act (CRA) Support.* The Department may disclose records to OMB as necessary to fulfill CRA requirements.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): The Department may disclose to a consumer reporting agency information regarding a claim by the Department which is determined to be valid and overdue as follows: (1) The name, address, taxpayer identification number and other information necessary to establish the identity of the individual responsible for the claim; (2) the amount, status, and history of the claim; and (3) the program under which the claim arose. The Department may disclose the information specified in this paragraph under 5 U.S.C. 552a(b)(12) and the procedures contained in 31 U.S.C. 3711(e). A consumer reporting agency to which these disclosures may be made is defined at 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISCLOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records at the National Computer Systems (NCS) are maintained on the mainframe at the NCS data center in Iowa City, IA and archived onto magnetic tape. Total System records are maintained on a mainframe database in Columbus, GA and backed up onto magnetic tapes. Golden Retriever System records are maintained on a sequel server database in Chandler, AZ and backed up onto CD-ROM.

RETRIEVABILITY:

Each student and/or borrower's file is indexed by social security number and the first two characters of their last name.

SAFEGUARDS:

All users of this system are given a unique user ID with a personal identifier. Student and parent users are assigned an Electronic Access Code (EAC) through the Federal Student Aid Application Files Privacy Act system of records number 18-11-01 by which they can access their accounts. All physical access to the Department's site, and the sites of Department contractors where this system of records is maintained, is controlled and monitored by security personnel who check each individual entering the building for his or her employee or visitor badge.

The computer system employed by the Department offers a high degree of resistance to tampering and circumvention. This security system limits data access to the Department, agents of the Department (including schools and funding sources), and contract staff on a "need to know" basis, and controls individual users' ability to access and alter records within the system. All users of this system of records are given a unique user ID with passwords.

RETENTION AND DISPOSAL:

Federal Loan Records: The Department will retain and dispose of loan records in accordance with the Department's Records Disposition Schedules (ED/RDS), Part 10, Item 16. Individual records (applications, certifications, disbursements, correspondence, and related records) for Federal loans may be destroyed three years after cancellation, forgiveness or final repayment of the Loan (ED/RDS, Part 10, Item 16). Electronic Federal loan records will be kept online and easily available for 24 months after reconciliation with the funding source, then retained in accordance with ED/RDS, Part 10, Item 16.

Federal Pell Grant Records: ED will retain and dispose of Pell Grant records in accordance with ED/RDS, Part 10, Item 17. Records of Federal Pell Grant recipients (applications, payment, correspondence, and related records) will be transferred to a Federal Records Center after final payment to grantee. Individual Pell Grant records may be destroyed 15 years after final payment to grantee (ED/RDS, Part 10, Item 17). Individual records for unapproved Federal Pell Grant applications will be transferred to a Federal Records Center 120 days after a rejection or withdrawal, and may be destroyed three years after date of rejection or withdrawal (ED/RDS, Part 10, Item 17(d)). Electronic Federal Pell Grant records will be kept online and easily available for 24 months after reconciliation with the

funding source, then retained in accordance with ED/RDS, Part 10, Item 17.

SYSTEM MANAGERS AND ADDRESS:

Service Director, Program Systems Service, Office of Student Financial Assistance Programs, U.S. Department of Education, 400 Maryland Avenue, SW., ROB-3, Room 4640, Washington, DC 20202.

NOTIFICATION PROCEDURE:

If an individual wishes to determine whether a record exists regarding him or her in this system of records, the individual may gain access to the system via the Internet or by contacting the system administrator through the Student Account Manager's customer service e-mail address or toll-free telephone number. (To obtain access to records by telephone, the student must first authorize telephone access through the Student Account Manager's website using his or her Electronic Access Code.) The student must provide the system manager with his or her name, date of birth, Social Security number, and Electronic Access Code (EAC). Requests for notification about an individual must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity. Individuals may also present their requests in person at any of the locations identified for this system of records or address their requests to the system manager at the following address: Program Systems Service, Office of Student Financial Assistance Programs, U.S. Department of Education, 400 Maryland Avenue, SW., ROB-3, Room 4640, Washington, DC 20202.

RECORD ACCESS PROCEDURES:

If an individual wishes to gain access to a record in this system, he or she may do so via the Internet, by calling the toll free customer service phone number using a touch-tone telephone, or by contacting the system manager through the Student Account Manager's customer service e-mail address or toll-free telephone number. (To obtain access to records by telephone, the student must first authorize telephone access through the Student Account Manager's website using his or her Electronic Access Code.)

CONTESTING RECORD PROCEDURES:

If an individual wishes to change the contents of a record in the system of records, he or she may challenge a transaction by contacting the system manager by telephone or sending written notice to the Student Account Manager's customer assistance area and

providing the information described in the notification procedure, identifying the specific item(s) to be changed, and providing a written justification for the change, including any supporting documentation.

RECORD SOURCE CATEGORIES:

Information is obtained from schools, lenders, guaranty agencies, students, borrowers, the Title IV Program Files (Privacy Act system of records number 18-11-05), the Federal Student Aid Application Files Privacy Act system of records number 18-11-001), the Direct Loan Origination Center, and the Recipient Funds Management System (RFMS).

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 99-13918 Filed 5-28-99; 8:45 am]

BILLING CODE 4000-01-U

DEPARTMENT OF ENERGY

Secretary of Energy Advisory Board; of Open Meeting

AGENCY: Department of Energy.

SUMMARY: Consistent with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting: Name: Secretary of Energy Advisory Board.

DATES AND TIMES: Tuesday, June 15, 1999, 1:00 pm-4:30 pm.

ADDRESSES: Argonne National Laboratory, Argonne Guest House (Building 460), 9700 South Cass Avenue, Argonne, Illinois

FOR FURTHER INFORMATION CONTACT: Richard C. Burrow, Secretary of Energy Advisory Board (AB-1), U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585, (202) 586-1709 or (202) 586-6279 (fax).

SUPPLEMENTARY INFORMATION:

Purpose of the Board

The Secretary of Energy Advisory Board (The Board) reports directly to the Secretary of Energy and is chartered under the Federal Advisory Committee Act. The Board provides the Secretary of Energy with essential independent advice and recommendations on issues of national importance. The Board and its subcommittees provide timely, balanced, and authoritative advice to the Secretary on the Department's management reforms, research, development, and technology activities,

energy and national security responsibilities, environmental cleanup activities, and economic issues relating to energy.

Tentative Agenda

Tuesday, June 15, 1999

- 1:00 pm-1:20 pm Welcome & Opening Remarks—SEAB Chairman and Secretary Bill Richardson
- 1:20 pm-2:45 pm Status Reports & Board Discussion
- 2:45 pm-3:00 pm Break
- 3:00 pm-4:15 pm Status Reports & Board Discussion
- 4:15 pm-4:30 pm Public Comment Period
- 4:30 pm Closing Remarks

This tentative agenda is subject to change. The final agenda will be available at the meeting.

Public Participation

The Chairman of the Secretary of Energy Advisory Board is empowered to conduct the meeting in a way that will, in the Chairman's judgment, facilitate the orderly conduct of business. During its meeting in Argonne, Illinois the Board welcomes public comment. Members of the public will be heard in the order in which they sign up at the beginning of the meeting. The Board will make every effort to hear the views of all interested parties. Written comments may be submitted to Skila Harris, Executive Director, Secretary of Energy Advisory Board, AB-1, US Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585. This notice is being published less than 15 days before the date of the meeting due to the late resolution of programmatic issues.

Minutes

Minutes and a transcript of the meeting will be available for public review and copying approximately 30 days following the meeting at the Freedom of Information Public Reading Room, 1E-190 Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C., between 9:00 am and 4:00 pm, Monday through Friday except Federal holidays. Information on the Secretary of Energy Advisory Board may also be found at the Board's web site, located at <http://www.hr.doe.gov/seab>.

Issued at Washington, D.C., on May 24, 1999.

James N. Solit,

Advisory Committee Management Officer.
[FR Doc. 99-13815 Filed 5-28-99; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97-168-003]

Alliance Pipeline L.P.; Notice of Amendment

May 25, 1999

Take notice that on May 21, 1999, Alliance Pipeline L.P. (Alliance), Suite 400, 605—5th Avenue S.W., Calgary, Alberta, Canada T2P 3H5, filed in Docket No. CP97-168-003 an application pursuant to Section 7(c) of the Natural Gas Act for an amendment to its certificate of public convenience and necessity previously issued by the Commission on September 17, 1998 in Docket No. CP97-168-000, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be viewed on the Internet at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

The Commission's September 17, 1998 order authorized the construction of a 886.8 mile long, 36-inch diameter pipeline, the U.S. portion of a project to transport natural gas from Canada at the intentional boundary in North Dakota to an interconnection near Chicago, Illinois. Alliance states that it seeks authorization to construct and operate its certificated Albert Lea 25-A Compressor Station at mile post 560.0 of the Alliance Pipeline route in Freeborn County, Minnesota, a site located approximately 8,000 feet southeast of the site certificated by the Commission's September 17, 1998 order. Alliance requests the authorization no later than July 30, 1999.

According to Alliance, the relocation of the compressor will allow the pipeline to avoid using eminent domain authority to acquire the land to construct the compressor station. Alliance states the compressor horsepower and resulting capacity will not be affected by the new location. Alliance further states that the cost of the facilities is unchanged by this amendment.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 4, 1999, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20526, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will

be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. The Commission's rules require the protestors provide copies of their protests to the party or parties directly involved. Any person wishing to become a party in any proceeding herein must file a motion to intervene in accordance with the Commission's rules.

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by every one of the intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must submit copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents and will be able to participate in meetings associated with the Commission's environmental review process. Commenter will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek rehearing or appeal the Commission's final order to a federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonments and a grant of the certificate are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that formal hearing is required,

further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Alliance to appear or to be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99-13712 Filed 5-28-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG99-149-000, et al.]

Green Country Energy, LLC, et al.; Electric Rate and Corporate Regulation Filings

May 24, 1999.

Take notice that the following filings have been made with the Commission:

1. Green Country Energy, LLC

[Docket No. EG99-149-000]

Take notice that on May 19, 1999, Green Country Energy, LLC filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to section 32(a)(1) of the Public Utility Holding Company Act of 1935.

The applicant is a limited liability company organized under the laws of the State of Delaware that is engaged directly and exclusively in developing, owning, and operating a gas-fired 795 MW (summer rated) combined-cycle power plant in Jenks, Oklahoma, which will be an eligible facility.

Comment date: June 14, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will its consideration of comments to those that concern the accuracy or adequacy of the application.

2. Tenaska Gateway Partners, Ltd.

[Docket No. EG99-150-000]

Take notice that on May 20, 1999, Tenaska Gateway Partners, Ltd., 1044 North 115th Street, Suite 400, Omaha, Nebraska 68154 (Tenaska Gateway), filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Tenaska Gateway, a Texas limited partnership, will construct, own, and operate a natural gas fired generating facility to be located in Rusk County, Texas. The facility will consist of three "F" Class combustion turbine-

generators, an approximately 400 MW steam turbine-generator and will use gas as the primary fuel and fuel oil as backup fuel for the combustion turbines. The Facility will also include natural gas receipt facilities, fuel oil storage facilities, fuel oil unloading facilities, and a switchyard. The Facility will include related transmission interconnection components necessary to interconnect the Facility with Texas Utilities Electric Company, which is located in the Electric Reliability Council of Texas (ERCOT), and with Southwestern Electric Power Company, which is a member of the Southwest Power Pool. The maximum electric power production capacity of the facility will be 930 MW. The Facility will be used exclusively for the generation of electric energy for sale at wholesale.

Comment date: June 14, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will its consideration of comments to those that concern the accuracy or adequacy of the application.

3. Louisville Gas And Electric Co./ Kentucky Utilities Company

[Docket No. ER98-114-002]

Take notice that on May 18, 1999, Louisville Gas and Electric Company/ Kentucky Utilities (LG&E/KU), tendered for filing a refund compliance report in accordance with the Commission's Order approving the Settlement Agreement for Transmission Rates in Docket No. ER98-114-000.

Comment date: June 7, 1999, in accordance with Standard Paragraph E at the end of this notice.

4. Millennium Energy Corporation

[Docket No. ER98-174-005]

Take notice that on May 17, 1999, the above-mentioned power marketer filed a quarterly report with the Commission in the above-mentioned proceeding for information only. This filing is available for public inspection and copying in the Public Reference Room or on the web at www.ferc.fed.us/online/rims.htm for viewing and downloading (call 202-208-2222 for assistance).

5. Carolina Power & Light Company

[Docket No. ER98-3220-003]

Take notice that on May 17, 1999, Carolina Power & Light Company (CP&L), tendered for filing a compliance filing to demonstrate that refunds associated with certain wholesale transactions did not allow CP&L to recover its variable costs for those wholesale transactions.

Comment date: June 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. Northern Indiana Public Service Company

[Docket No. ER99-2075-001]

Take notice that on May 19, 1999, Northern Indiana Public Service Company tendered for filing its Compliance Filing according to the Commission's December 16, 1998 Order in North America Electric Reliability Council, 85 FERC ¶ 61,353 (1998) and its May 12, 1999, Order in this proceeding.

Comment date: June 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. Atlantic City Electric Company, Delmarva Power & Light Company and Conectiv Energy Supply, Inc.

[Docket No. ER99-2525-000]

Take notice that on May 17, 1999, Atlantic City Electric Company (Atlantic), Delmarva Power & Light Company (Delmarva) and Conectiv Energy Supply, Inc. (CES), (collectively, the Companies) tendered for filing an amendment to Docket No. ER99-2525-000, in which the Companies agreed to adopt the recent PJM market study in Atlantic City Electric Company, et al., 86 FERC ¶ 61,248 (March 10, 1999) as their updated three-year market analysis pursuant to their market-based rate authority. The Companies proposed to file their next updated market analysis within three years after March 10, 1999. The Companies request that this amendment supersede the Companies' original filing in Docket No. ER99-2525-000.

The Companies have served the affected customers and state commissions with this filing.

Comment date: June 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. Navitas, Inc.

[Docket No. ER99-2537-000]

Take notice that on May 18, 1999, Navitas, Inc. (Navitas) petitioned the Commission for acceptance of an Amendment to Exhibit A of Navitas' Petition for Acceptance of Initial Rate Schedule. Waivers and Blanket Authority. The amended Exhibit A of the petition adds descriptions of Navitas affiliates, the names of which were included in the original Exhibit A of Navitas' Petition for Acceptance of Initial Rate Schedule. Waivers and Blanket Authority.

Navitas intends to engage in wholesale electric power and energy

purchases and sales as a marketer. Navitas may also engage in other nonjurisdictional activities, such as facilitating the purchase and sale of wholesale energy without taking title to the electricity, selling electricity to retail customers in states in which retail electric power competition has been implemented, and arranging services in related areas such as transmission and fuel supplies. Navitas is not in the business of generating or transmitting electric power. Navitas is a wholly-owned subsidiary of Northern Alternative Energy, Inc., which through its affiliates, develops wind-driven generation facilities, the power from which is dedicated under long-term contracts.

Comment date: June 7, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. Nautilus Energy Company

[Docket No. ER98-2618-000]

Take notice that on May 17, 1999, Nautilus Energy Company, tendered for filing a notice of change in status in the above-referenced proceeding.

Comment date: June 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Alliant Energy Corporate Services, Inc.

[Docket No. ER99-2640-000]

Take notice that on May 17, 1999, Alliant Energy Corporate Services, Inc., tendered for filing an amendment in Docket No. ER99-2640-000. Alliant Energy Corporate Services, Inc., is amending that filing to provide notice that two executed service agreements for point-to-point transmission service were filed in that Docket. One agreement was for Short-Term Firm Point-to-Point transmission Service. The other agreement was for Non-Firm Point-to-Point Transmission Service. Both agreements were executed by British Columbia Power Exchange Corporation and Alliant Energy Corporate Services, Inc.

Alliant Energy Corporate Services, Inc., renews its request for an effective date of April 8, 1999, and accordingly, seeks waiver of the Commission's notice requirements.

A copy of this filing has been served upon the Illinois Commerce Commission, the Minnesota Public Utilities Commission, the Iowa Department of Commerce, and the Public Service Commission of Wisconsin.

Comment date: June 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Old Mill Power Company

[Docket No. ER99-2883-000]

Take notice that on May 17, 1999, Old Mill Power Company (Old Mill), tendered for filing an amendment of the petition to the Commission for acceptance of Old Mill Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission Regulations.

Old Mill intends to engage in wholesale electric power and energy purchases and sales as a marketer. Old Mill also intends to engage in retail sales of electricity, but is not in the business of generating or transmitting electric power. Old Mill is wholly owned by Michel A. King (President) and Elizabeth C. King (Secretary). In addition to serving as Old Mill's President, Mr. King occasionally serves as an Adjunct Professor of Engineering, Engineering Teaching Assistant, or Engineering Research Assistant at the University of Virginia, Charlottesville, Virginia. In addition to serving as Old Mill's Secretary, Mrs. King regularly serves as a Registered Nurse at the University of Virginia Medical Center, Charlottesville, Virginia.

Comment date: June 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. Illinois Power Company

[Docket No. ER99-2951-000]

Take notice that on May 17, 1999, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm and non-firm transmission agreements under which PECO Energy Company will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of May 6, 1999.

Comment date: June 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Illinois Power Company

[Docket No. ER99-2952-000]

Take notice that on May 17, 1999, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing a Power Sales Tariff, Service Agreement under which Merrill Lynch will take service under Illinois Power Company's Power Sales Tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of May 5, 1999.

Comment date: June 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. Illinois Power Company

[Docket No. ER99-2953-000]

Take notice that on May 17, 1999, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing a Power Sales Tariff, Service Agreement under which TransAlta Energy Marketing (U.S.) Inc., will take service under Illinois Power Company's Power Sales Tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of May 5, 1999.

Comment date: June 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Illinois Power Company

[Docket No. ER99-2954-000]

Take notice that on May 17, 1999, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing a Power Sales Tariff, Service Agreement under which New Energy Ventures, Inc., will take service under Illinois Power Company's Power Sales Tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of April 30, 1999.

Comment date: June 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. Illinois Power Company

[Docket No. ER99-2955-000]

Take notice that on May 17, 1999, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing a Power Sales Tariff, Service Agreement under which CLECO Corporation will take service under Illinois Power Company's Power Sales Tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of April 30, 1999.

Comment date: June 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. MidAmerican Energy Company

[Docket No. ER99-2956-000]

Take notice that on May 17, 1999, MidAmerican Energy Company (MidAmerican), 666 Grand Avenue, Des

Moines, Iowa 50303, tendered for filing with the Commission a Service Agreement dated February 12, 1999, with ConAgra Energy Services, Inc., entered into pursuant to MidAmerican's Rate Schedule for Power Sales, FERC Electric Tariff, Original Volume No. 5 (Tariff).

MidAmerican requests an effective date of May 1, 1999, for this Agreement, and accordingly seeks a waiver of the Commission's notice requirement.

MidAmerican has served a copy of the filing on ConAgra Energy Services, Inc., the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

Comment date: June 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. Rochester Gas and Electric Corporation

[Docket No. ER99-2960-000]

Take notice that on May 17, 1999, Rochester Gas and Electric Corporation (RG&E), tendered for filing a Service Agreement between RG&E and the KeySpan Energy (Customer). This Service Agreement specifies that the Customer has agreed to the rates, terms and conditions of the RG&E open access transmission tariff filed on July 9, 1996 in Docket No. OA96-141-000.

RG&E requests waiver of the Commission's sixty (60) day notice requirements and an effective date of May 5, 1999, for the KeySpan Energy Service Agreement.

RG&E has served copies of the filing on the New York State Public Service Commission and on the Customer.

Comment date: June 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

19. California Power Exchange Corporation

[Docket No. ER99-2967-000]

Take notice that on May 17, 1999, the California Power Exchange Corporation (PX), tendered for filing a notice of an experimental Post Close Quantity Match (PCQM) mechanism to begin June 30, 1999 or five days after the PX posts a notice on its website. The period of the experiment would be seven months. The PX proposes to implement a PCQM session at the close of the PX Day-Ahead and Hour-Ahead markets. These sessions would allow traders to even up market positions at the settlement price after the close of the market. The PCQM will operate at the Market Clearing Price (MCP) and will not affect the level of the MCP or the manner in which it is determined.

At the conclusion of the experimental period, the PX will make a decision on

the PCQM based upon its own analysis and input from market participants. Specifically, the PX will then decide whether to make the PCQM a permanent part of its tariff and protocols. The PX is serving copies of this letter on each of its participants and posted a notice of this filing on its website seven days prior to the filing.

Comment date: June 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

20. The United Illuminating Company

[Docket No. ER99-2972-000]

Take notice that on May 17, 1999, The United Illuminating Company (UI), tendered for filing four Service Agreements for Firm Point-to-Point Transmission Service and an Interconnection Agreement between UI and Wisvest-Connecticut LLC executed pursuant to UI's Open Access Transmission Tariff, FERC Electric Tariff, Original Volume No. 4, as amended.

Comment date: June 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

21. Northeast Utilities Service

[Docket No. ER99-2974-000]

Take notice that on May 18, 1999, Northeast Utilities Service Company (NUSCO), tendered for filing a Service Agreement with TransCanada Power Marketing, Ltd. (TCPM), under the NU System Companies' Sale for Resale Tariff No. 7.

NUSCO states that a copy of this filing has been mailed to TCPM.

NUSCO requests that the Service Agreement become effective June 1, 1999.

Comment date: June 7, 1999, in accordance with Standard Paragraph E at the end of this notice.

22. Allegheny Power Service Corp., on behalf of Monongahela Power Co. The Potomac Edison Company, and West Penn Power Company (Allegheny Power)

[Docket No. ER99-2975-000]

Take notice that on May 18, 1999, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), tendered for filing Supplement No. 55 to add Reliant Energy Services, Inc., to Allegheny Power Open Access Transmission Service Tariff which has been accepted for filing by the Federal Energy Regulatory Commission in Docket No. ER96-58-000.

The proposed effective date under the Service Agreement is May 17, 1999.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, and the West Virginia Public Service Commission.

Comment date: June 7, 1999, in accordance with Standard Paragraph E at the end of this notice.

23. Niagara Mohawk Power Corporation

[Docket No. ER99-2976-000]

Take notice that on May 18, 1999, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing with the Federal Energy Regulatory Commission an executed Transmission Service Agreement between Niagara Mohawk and Rochester Gas and Electric Corporation (RG&E). This Transmission Service Agreement specifies that RG&E has signed on to and has agreed to the terms and conditions of Niagara Mohawk's Open Access Transmission Tariff as filed in Docket No. OA96-194-000. This Tariff, filed with FERC on July 9, 1996, will allow Niagara Mohawk and RG&E to enter into separately scheduled transactions under which Niagara Mohawk will provide non-firm transmission service for RG&E as the parties may mutually agree.

Niagara Mohawk requests an effective date of May 7, 1999. Niagara Mohawk has requested waiver of the notice requirements for good cause shown.

Niagara Mohawk has served copies of the filing upon the New York State Public Service Commission and RG&E.

Comment date: June 7, 1999, in accordance with Standard Paragraph E at the end of this notice.

24. PJM Interconnection, L.L.C.

[Docket No. ER99-2977-000]

Take notice that on May 18, 1999, PJM Interconnection, L.L.C. (PJM), tendered for filing a signature page of a party to the Reliability Assurance Agreement among Load Serving Entities in the PJM Control Area (RAA), and an amended Schedule 17 listing the party to the RAA.

PJM states that it served a copy of its filing on all parties to the RAA, including the party for which a signature page is being tendered with this filing, and each of the state electric regulatory commissions within the PJM Control Area.

Comment date: June 7, 1999, in accordance with Standard Paragraph E at the end of this notice.

25. PP&L, Inc.

[Docket No. ER99-2978-000]

Take notice that on May 18, 1999, PP&L, Inc. (PP&L), tendered for filing a Service Agreement dated May 31, 1999 with Sithe Power Marketing, Inc. (Sithe), under PP&L's Market-Based Rate and Resale of Transmission Rights Tariff, FERC Electric Tariff, Revised Volume No. 5. The Service Agreement adds Sithe as an eligible customer under the Tariff.

PP&L requests an effective date of May 18, 1999, for the Service Agreement.

PP&L states that copies of this filing have been supplied to Sithe and to the Pennsylvania Public Utility Commission.

Comment date: June 7, 1999, in accordance with Standard Paragraph E at the end of this notice.

26. Texas Utilities Electric Company

[Docket No. ER99-2979-000]

Take notice that on May 19, 1999, Texas Utilities Electric Company (TU Electric), tendered for filing an executed transmission service agreement (TSA) with Williams Energy Marketing & Trading Company, for certain Unplanned Service transactions under TU Electric's Tariff for Transmission Service To, From and Over Certain HVDC Interconnections.

TU Electric requests an effective date for the TSA that will permit it to become effective on or before the service commencement date under the TSA. Accordingly, TU Electric seeks waiver of the Commission's notice requirements. Copies of the filing were served on Williams Energy Marketing & Trading Company as well as the Public Utility Commission of Texas.

Comment date: June 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

27. Consolidated Edison Company of New York, Inc.

[Docket No. ER99-2980-000]

Take notice that on May 18, 1999, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a Supplement to its Rate Schedule FERC No. 60, an agreement to provide transmission service for the Power Authority of the State of New York (the Authority). The Supplement provides for a decrease in the annual revenues under the Rate Schedule of \$106,470.

Con Edison has requested that the decrease take effect on July 1, 1999.

Con Edison states that a copy of this filing has been served by mail upon the Authority.

Comment date: June 7, 1999, in accordance with Standard Paragraph E at the end of this notice.

28. Pacific Gas and Electric Company

[Docket No. ER99-2981-000]

Take notice that on May 17, 1999, Pacific Gas and Electric Company (PG&E), tendered for filing amendments to the South of Tesla Principles for Tesla-Midway Transmission Service (SOTP) between PG&E and the Transmission Agency of Northern California (TANC). The amendment provides for certain contract changes to reflect a negotiated settlement between the parties. The changes include, among other things, a reduced Pre-Specified Mitigation Rate and a one-year extension of the current rate methodology.

PG&E proposes that the Amendment to the rate schedule become effective July 1, 1998.

Copies of this filing have been served upon the California Public Utilities Commission and TANC.

Comment date: June 4, 1999, in accordance with Standard Paragraph E at the end of this notice.

29. Green Country Energy, LLC

[Docket No. ER99-2984-000]

Take notice that on May 19, 1999, Green Country Energy, LLC, an electric power developer organized under the laws of Delaware, petitioned the Commission for acceptance of its market-based rate schedule, waiver of certain requirements under Subparts B and C of Part 35 of the Commission's Regulations, and preapproval of transactions under Part 34 of the Regulations. Green Country is developing a 795 MW (summer rated) gas-fired generating facility in Jenks, Oklahoma.

Comment date: June 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

30. California Independent System Operator Corporation

[Docket No. ER99-2985-000]

Take notice that on May 19, 1999, the California Independent System Operator Corporation (ISO), tendered for filing a Scheduling Coordinator Agreement between the ISO and PG&E Energy Trading—Power, L.P., for acceptance by the Commission.

The ISO states that this filing has been served on PG&E Energy Trading—Power, L.P. and the California Public Utilities Commission.

Comment date: June 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

31. California Independent System Operator Corporation

[Docket No. ER99-2986-000]

Take notice that on May 19, 1999, the California Independent System Operator Corporation (ISO), tendered for filing a Meter Service Agreement for ISO Metered Entities (Meter Service Agreement) between the ISO and Woodland Biomass Power, Ltd. (Woodland), for acceptance by the Commission.

The ISO states that this filing has been served on Woodland and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Meter Service Agreement to be made effective as of April 23, 1999.

Comment date: June 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

32. Dayton Power and Light Company

[Docket No. ER99-2987-000]

Take notice that on May 19, 1999, Dayton Power and Light Company (Dayton), tendered for filing service agreements establishing DPL Energy Inc., DukeSolutions, Inc., FirstEnergy Corp., as customers under the terms of Dayton's Open Access Transmission Tariff.

Dayton requests an effective date of one day subsequent to this filing for the service agreements. Accordingly, Dayton requests waiver of the Commission's notice requirements.

Copies of this filing were served upon DPL Energy Inc., DukeSolutions, Inc., FirstEnergy Corp., and the Public Utilities Commission of Ohio.

Comment date: June 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

33. Orange and Rockland Utilities, Inc.

[Docket No. ER99-3003-000]

Take notice that on May 19, 1999, Orange and Rockland Utilities, Inc. (Orange and Rockland), tendered for filing a Service Agreement between Orange and Rockland and Aquila Power Corporation (Customer). This Service Agreement specifies that the Customer has agreed to the rates, terms and conditions of Orange and Rockland Open Access Transmission Tariff filed on July 9, 1996 in Docket No. OA96-210-000.

Orange and Rockland requests waiver of the Commission's sixty-day notice requirements and an effective date of May 5, 1999, for the Service Agreement.

Orange and Rockland has served copies of the filing on The New York State Public Service Commission and on the Customer.

Comment date: June 7, 1999, in accordance with Standard Paragraph E at the end of this notice.

34. Orange and Rockland Utilities, Inc.

[Docket No. ER99-3004-000]

Take notice that on May 18, 1999, Orange and Rockland Utilities, Inc. (Orange and Rockland), tendered for filing a Service Agreement between Orange and Rockland and Aquila Power Corporation (Customer). This Service Agreement specifies that the Customer has agreed to the rates, terms and conditions of Orange and Rockland Open Access Transmission Tariff filed on July 9, 1996 in Docket No. OA96-210-000.

Orange and Rockland requests waiver of the Commission's sixty-day notice requirements and an effective date of May 5, 1999, for the Service Agreement. Orange and Rockland has served copies of the filing on The New York State Public Service Commission and on the Customer.

Comment date: June 7, 1999, in accordance with Standard Paragraph E at the end of this notice.

35. Coast Energy Group, a division of CornerStone Propane, L.P.

[Docket No. ER99-3005-000]

Take notice that on May 19, 1999, Coast Energy Group, a division of CornerStone Propane, L.P. (CEG), tendered for filing on May 19, 1999, pursuant to Rule 205 of the Commission's Rules of Practice and Procedure, 18 CFR 385.205, an application for an order accepting its proposed power sales rate schedule for the sale of energy and capacity at market-based rates and for waivers and blanket approvals under various regulations of the Commission.

CEG seeks an effective date of July 18, 1999, for this filing.

Comment date: June 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

36. Dayton Power and Light Company

[Docket No. ER99-3006-000]

Take notice that on May 19, 1999, Dayton Power and Light Company (Dayton), tendered for filing service agreements establishing with DPL Energy Inc., DukeSolutions, Inc., as customers under the terms of Dayton's Open Access Transmission Tariff.

Dayton requests an effective date of one day subsequent to this filing for the service agreements. Accordingly, Dayton requests waiver of the Commission's notice requirements.

Copies of this filing were served upon with DPL Energy Inc., DukeSolutions,

Inc., and the Public Utilities Commission of Ohio

Comment date: June 8, 1999, in accordance with Standard Paragraph E at the end of this notice

37. UtiliCorp United Inc.

Docket No. ER99-3007-000

Take notice that on May 19, 1999, UtiliCorp United Inc., (UtiliCorp), tendered for filing a service agreement with Duke Energy Trading & Marketing L.L.C., for service under its Short-Term Firm Point-to-Point open access service tariff for its operating division, Missouri Public Service.

Comment date: June 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

38. Mid-Continent Area Power Pool

Docket Nos. OA97-163-003, ER97-1162-002, OA97-658-003. Take notice that on May 17, 1999, the Mid-Continent Area Power Pool tendered for filing its compliance filing in the above-reference dockets.

Comment date: June 16, 1999, in accordance with Standard Paragraph E at the end of this notice

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

David P. Boegers,

Secretary

FERD-99-13711 Filed 5-28-99; 8:45 am

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EF99-5041-000, et al.]

Western Area Power Administration, et al.; Electric Rate and Corporate Regulation Filings

May 25, 1999

Take notice that the following filings have been made with the Commission:

1. Western Area Power Administration

Docket No. EF99-5041-000

Take notice that on May 21, 1999, Western Area Power Administration tendered for filing an amendment to its May 3, 1999, filing in the above-referenced docket.

Comment date: June 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

2. North American Electric Reliability Council

Docket No. ER99-2012-001

Take notice that on May 14, 1999, North American Electric Reliability Council tendered for filing a description and procedures for a market redispatch pilot program to be in effect for the Eastern Interconnection during the period June 1, 1999 through September 30, 1999.

Comment date: June 14, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. California Independent System Operator Corporation

Docket Nos. ER99-2988-000

Take notice that on May 20, 1999, the California Independent System Operator Corporation (ISO), tendered for filing a Participating Generator Agreement between Riverside Canal Power Company (Riverside Canal) and the ISO for acceptance by the Commission.

The ISO states that this filing has been served on Riverside Canal and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Participating Generator Agreement to be made effective as of May 7, 1999.

Comment date: June 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

4. California Independent System Operator Corporation

Docket No. ER99-2989-000

Take notice that on May 20, 1999, the California Independent System Operator Corporation (ISO), tendered for filing a Meter Service Agreement for ISO

Metered Entities (Meter Service Agreement) between the ISO and Riverside Canal Power Company (Riverside Canal) for acceptance by the Commission.

The ISO states that this filing has been served on Riverside Canal and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Meter Service Agreement to be made effective as of May 7, 1999.

Comment date: June 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. California Independent System Operator Corporation

Docket No. ER99-2990-000

Take notice that on May 20, 1999, the California Independent System Operator Corporation (ISO), tendered for filing a Participating Generator Agreement between Mountainview Power Company (Mountainview Power) and the ISO for acceptance by the Commission.

The ISO states that this filing has been served on Mountainview Power and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Participating Generator Agreement to be made effective as of May 7, 1999.

Comment date: June 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. California Independent System Operator Corporation

[Docket No. ER99-2991-000]

Take notice that on May 20, 1999, the California Independent System Operator Corporation (ISO), tendered for filing a Meter Service Agreement for ISO Metered Entities (Meter Service Agreement) between the ISO and Mountainview Power Company (Mountainview Power) for acceptance by the Commission.

The ISO states that this filing has been served on Mountainview Power and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Meter Service Agreement to be made effective as of May 7, 1999.

Comment date: June 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. Tenaska Gateway Partners, Ltd.

[Docket No. ER99-2992-000]

Take notice that on May 20, 1999, Tenaska Gateway Partners, Ltd., 1044 North 115th Street, Suite 400, Omaha, Nebraska 68154 (Tenaska Gateway), which will own and operate a natural gas fired electric generating facility to be

constructed in Rusk County, Texas, submitted for filing with the Federal Energy Regulatory Commission its initial FERC Electric Rate Schedule No. 1, which will enable Tenaska Gateway to engage in the sale of electric energy and capacity at market-based rates.

Comment date: June 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company

[Docket No. ER99-2993-000]

Take notice that on May 20, 1999, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (d/b/a GPU Energy), tendered for filing an executed Service Agreement between GPU Energy and Horizon Energy Company d/b/a Exelon Energy (Exelon Energy), dated May 19, 1999. This Service Agreement specifies that Exelon Energy has agreed to the rates, terms and conditions of GPU Energy's Market-Based Sales Tariff (Sales Tariff) designated as FERC Electric Rate Schedule, Second Revised Volume No. 5. The Sales Tariff allows GPU Energy and Exelon Energy to enter into separately scheduled transactions under which GPU Energy will make available for sale, surplus capacity and/or energy.

GPU Energy requests a waiver of the Commission's notice requirements for good cause shown and an effective date of May 19, 1999, for the Service Agreement.

GPU Energy has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania.

Comment date: June 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company

[Docket No. ER99-2994-000]

Take notice that on May 20, 1999, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (d/b/a GPU Energy), tendered for filing an executed Service Agreement between GPU Energy and Edison Mission Marketing and Trading, Inc. (Edison Mission Marketing), dated April 21, 1999. This Service Agreement specifies that Edison Mission Marketing has agreed to the rates, terms and conditions of GPU Energy's Market-Based Sales Tariff (Sales Tariff) designated as FERC Electric Rate Schedule, Second Revised

Volume No. 5. The Sales Tariff allows GPU Energy and Edison Mission Marketing to enter into separately scheduled transactions under which GPU Energy will make available for sale, surplus capacity and/or energy.

GPU Energy requests a waiver of the Commission's notice requirements for good cause shown and an effective date of April 21, 1999, for the Service Agreement.

GPU Energy has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania.

Comment date: June 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company

[Docket No. ER99-2995-000]

Take notice that on May 20, 1999, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (d/b/a GPU Energy), tendered for filing an executed Service Agreement between GPU Energy and DTE Edison America, Inc. (DTE Edison), dated March 1, 1999. This Service Agreement specifies that DTE Edison has agreed to the rates, terms and conditions of GPU Energy's Market-Based Sales Tariff (Sales Tariff) designated as FERC Electric Rate Schedule, Second Revised Volume No. 5. The Sales Tariff allows GPU Energy and DTE Edison to enter into separately scheduled transactions under which GPU Energy will make available for sale, surplus capacity and/or energy.

GPU Energy requests a waiver of the Commission's notice requirements for good cause shown and an effective date of March 1, 1999, for the Service Agreement.

Comment date: June 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Wisvest-Connecticut, L.L.C.

[Docket No. ER99-2996-000]

Take notice that on May 20, 1999, Wisvest-Connecticut, L.L.C. (Wisvest-Connecticut), tendered for filing to the Commission copies of documents confirming the assignment of five wholesale power sales agreements from The United Illuminating Company to Wisvest-Connecticut pursuant to the Commission's order dated February 24, 1999. The United Illuminating Company, 86 FERC ¶ 62,160 (1999). Parties to the assigned agreements include Unitil Power Corporation, PECO Energy Company—Power Team, Bangor Hydroelectric Company, The

Connecticut Light & Power Company, and Citizens Utilities Company.

Wisvest-Connecticut requests waiver of the prior notice filing requirement to permit the assignments to become effective April 16, 1999, the date the assignments occurred.

Comment date: June 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. North American Electric Reliability Council

[Docket No. ER99-2997-000]

Take notice that on May 20, 1999, the North American Electric Reliability Council (NERC), tendered for filing amendments to the portions of NERC's Operating Policy 9, that set forth NERC's Transmission Loading Relief Procedures and that are on file with the Commission as North American Electric Reliability Council, FERC Electric Tariff, Original Volume No. 1. The purpose of these amendments is to incorporate a Transaction Contribution Factor and the Constrained Path Method into NERC's transmission loading relief procedures.

NERC requests that the amendments be made effective June 1, 1999.

Comment date: June 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Tampa Electric Company

[Docket No. ER99-2998-000]

Take notice that on May 20, 1999, Tampa Electric Company tendered for filing certain new and revised tariff sheets for inclusion in its open access transmission tariff. Tampa Electric states that the tariff sheets conform the text of Tampa Electric's tariff under Order No. 888-A, as recently accepted for filing, with established provisions of its former tariff under Order No. 888.

Tampa Electric proposes effective dates of January 15, 1999, for one of the tariff sheets and February 15, 1999, for the others, and therefore requests waiver of the Commission's notice requirement.

Copies of the filing have been served on Tampa Electric's transmission service customers under the tariff and the Florida Public Service Commission.

Comment date: June 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. Central Illinois Light Company

[Docket No. ER99-2999-000]

Take notice that on May 20, 1999, Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61602, tendered for filing with the Commission an Index of Customers under its Market Rate Power Sales Tariff and two service agreements with one

new customer, Illinois Power Company (IPCO).

CILCO requested an effective date of May 17, 1999.

Copies of the filing were served on the affected customer and the Illinois Commerce Commission.

Comment date: June 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Astoria Gas Turbine Power LLC

[Docket No. ER99-3000-000]

Take notice that on May 20, 1999, Astoria Gas Turbine Power LLC, tendered for filing a letter advising that the name of Astoria Power LLC has been changed to Astoria Gas Turbine Power LLC.

Comment date: June 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. Florida Power Corporation

[Docket No. ER99-3001-000]

Take notice that on May 20, 1999, Florida Power Corporation (FPC), tendered for filing a service agreement between Columbia Energy Power Marketing Corporation and FPC for service under FPC's Market-Based Wholesale Power Sales Tariff (MR-1), FERC Electric Tariff, Volume No. 8, as amended. This Tariff was accepted for filing by the Commission on June 26, 1997, in Docket No. ER97-2846-000.

The service agreement is proposed to be effective May 17, 1999.

Comment date: June 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. Florida Power Corporation

[Docket No. ER99-3002-000]

Take notice that on May 20, 1999, pursuant to Section 35.15, 18 CFR 35.15, of the Commission's Regulations, Florida Power Corporation (Florida Power), tendered for filing a notice of termination of the Contract for Interchange Service dated December 26, 1984, between Florida Power and Fort Pierce Utilities Authority (Fort Pierce), Florida Power's Rate Schedule FERC No. 100. Fort Pierce requested that Florida Power file to terminate the agreement.

Florida Power has requested waiver of the Commission's 60-day prior notice requirement to permit the termination to be effective as of the date of filing.

Comment date: June 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. Anna M. Schwarz, Stephen P. Strait, Donald T. Krom, Eric M. Markell

[Docket No. ID-3317-000; Docket No. ID-3318-000; Docket No. ID-3319-000; Docket No. ID-3320-000]

Take notice that on May 21, 1999, applications for authority to hold interlocking positions pursuant to Part 45 of the Commission's Regulations, were filed in the above-mentioned proceedings.

Comment date: June 21, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

David P. Boergers,

Secretary

[FR Doc. 99-13783 Filed 5-28-99; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-6351-7]

Agency Information Collection Activities: Proposed Collection; Comment Request; Notification of Arrival of Pesticides and Devices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3507(a)(1)(D)), this document announces that the Information Collection Request (ICR) abstracted below, Notice of Arrival of Pesticides and Devices (EPA Form 3540-1, OMB Control No. 2070-0020; ICR No. 152.06), has been forwarded to the Office of Management and Budget (OMB) for

review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before July 1, 1999.

FOR FURTHER INFORMATION CONTACT:

Sandy Farmer at EPA by phone at (202) 260-2740, by e-mail at farmer.sandy@epamail.epa.gov, or download off the Internet at <http://www.epa.gov/icr> and refer to EPA ICR No. 152.06.

SUPPLEMENTARY INFORMATION:

Title: Notice of Arrival of Pesticides and Devices (EPA Form 3540-1, OMB Control No. 2070-0020; EPA ICR No. 152.06). This is a request for an extension of a currently approved collection.

Abstract: FIFRA section 17(c) directs the Secretary of the Treasury to notify the Administrator of the Environmental Protection Agency (EPA) of the arrival of pesticides and devices being imported into the United States and deliver to the Administrator, upon the Administrator's request, samples of pesticides or devices which are being imported into the United States.

The Notice of Arrival form (EPA Form 3540-1), prescribed by 19 CFR 12.112(a), is the instrument by which Customs and the EPA achieve coordination over shipments of goods classified as pesticides imports. The Notice of Arrival (NOA) form, acknowledging an impending shipment of pesticides or devices, must be presented to EPA prior to the arrival of the pesticide products for each shipment of pesticides.

Pesticide importers, brokers, consignees, must prepare the NOA, identifying the nature of the planned importation, and submit it to the EPA region having jurisdiction over the port through which the pesticide or device is to be imported. EPA regional personnel review the submission to determine whether the planned import appears to comply with FIFRA, and whether there is an apparent need to inspect the import. After review, EPA signs and returns the NOA to the importer.

The importer presents the EPA-signed NOA to the District Director of U.S. Customs at the port of entry. The U.S. Customs notifies the EPA regional office, if instructed, or if it identifies any discrepancies. Customs releases the shipment for entry following receipt of EPA clearance and signs part III of the NOA which is then returned to the regional office with jurisdiction over the port of entry. Each region stores and maintains its own copies of NOA

submissions. A copy of the NOA, instructions for its completion, section 17 of FIFRA, and 19 CFR 12.112 is attached to further explain and document this reporting requirement.

The purpose of this reporting requirement is to help insure that pesticides and devices entering the U.S. comply with U.S. laws governing such products. Uniform reporting of information submitted for pesticides arriving in the customs territory of the U.S. is necessary to monitor compliance with FIFRA, to identify the responsible party in cases of violations, and to determine specific information regarding the source of any pesticide in question. The information permits EPA to stop ineffective, unregistered, suspended, canceled, misbranded, contaminated, or otherwise violative products from being imported into the country, track those that do enter, and minimize adverse environmental impacts that might arise from the importation of violative products. Additionally, by requiring brokers/agents to offer documentation to Customs and EPA of the importation of registered pesticides, the flow of commerce for approved products is facilitated. The information collected is used by EPA regional pesticide enforcement and compliance staff, the Office of Enforcement and Compliance Assurance and Office of Pesticide Programs. U.S. Customs, the U.S. Department of Agriculture, the Food and Drug Administration, and other Federal agencies also make use of this information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on January 5, 1999. No comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 0.30 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to: review instructions; develop, acquire, install and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing

and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Persons importing pesticide products and devices.

Estimated number of respondents: 7,000 annually.

Estimated number of responses: 7,000 annually.

Frequency of response: Once per shipment of pesticide or device imported.

Estimated total annual hour burden: 2,100 hours.

Estimated total annualized cost burden: \$0.

Please send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing the respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR 152.06 and OMB Control No. 2070-0020 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Office of Policy, Regulatory Information Division (2137), 401 M Street, SW., Washington, DC 20460;

and
Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Office for EPA, 725 17th Street, NW., Washington, DC 20503.

Dated: May 24, 1999.

Richard T. Westlund,
Acting Director, Regulatory Information Division.

[FR Doc. 99-13804 Filed 5-28-99; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[OPP-00604; FRL-6084-9]

State FIFRA Issues Research and Evaluation Group (SFIREG) Water Quality and Pesticide Disposal Working Committee; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The State FIFRA Issues Research and Evaluation Group (SFIREG) Water Quality and Pesticide

Disposal Working Committee will hold a 2-day meeting, June 10 and 11, 1999. This notice announces the location and times for the meeting and sets forth the tentative agenda topics. The meeting is open to the public.

DATES: The SFIREG Working Committee on Water Quality and Pesticide Disposal will meet on Monday, June 10, 1999, from 8:30 a.m. to 4 p.m. and Friday, June 11, 1999, from 8:30 to noon. Please note that on Thursday, June 10, 1999, from 4 p.m. to 5 p.m. there will be a closed session. This session is open only to representatives of EPA and all state co-regulators.

ADDRESSES: The meeting will be held at: The Doubletree Hotel, 300 Army Navy Drive, Arlington-Crystal City, VA.

FOR FURTHER INFORMATION CONTACT: By mail: Elaine Y. Lyon, Field and External Affairs Division, Office of Pesticide Programs (7502C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 1921 Jefferson Davis Highway, Crystal Mall #2, Arlington, VA; (703) 305-5306; fax: (703) 305-1850; e-mail: lyon.elaine@epa.gov.

SUPPLEMENTARY INFORMATION: The tentative agenda of the SFIREG Working Committee on Water Quality and Pesticide Disposal includes the following:

1. Update on Isomer **Federal Register** Notice.
2. States' concerns with coordination efforts between the Office of Pesticide Programs and the Office of Water regarding conflicts in laws and regulations.
3. Conditional Registration Issues - ground water concerns and impacts on the states.
4. Total Maximum Daily Load (TMDL) Implementation Rule.
5. National Pollutant Discharge Elimination System (NPDES) issues.
6. Efforts by EPA and the Texas Department of Agriculture on aquatic herbicide issues.
7. Surface water issues.
8. Update from the Office of Pesticide Programs.
9. Update from the Office of Enforcement and Compliance Assurance.
10. Other topics as appropriate.

List of Subjects

Environmental protection.

Dated: May 25, 1999.

Bruce A. Sidwell,

Acting Director, Field and External Affairs Division, Office of Pesticide Programs.

[FR Doc. 99-13796 Filed 5-28-99; 8:45 am]

BILLING CODE 6560-50-F

EXPORT-IMPORT BANK OF THE UNITED STATES

Notice of Open Special Meeting of the Advisory Committee of the Export-Import Bank of the United States (Export-Import Bank)

Summary: The Advisory Committee was established by P.L. 98-181, November 30, 1983, to advise the Export-Import Bank on its programs and to provide comments for inclusion in the reports of the Export-Import Bank of the United States to Congress.

Time and Place: Tuesday, June 15, 1999, at 9:30 a.m. to 3:30 p.m. The meeting will be held at The Colonnade Hotel, Huntington Ballroom, Suite A, 120 Huntington Avenue, Boston, MA 02116.

Agenda: This meeting will include a discussion of options for medium-term delegated authority with regional bankers and brokers. Further discussions will include a panel discussion with several high-tech industries from the north-east region on how and to what extent is their usage of Ex-Im Bank programs.

Public Participation: The meeting will be open to public participation, and the last 10 minutes will be set aside for oral questions or comments. Members of the public may also file written statement(s) before or after the meeting. If any person wishes auxiliary aids (such as a sign language interpreter) of other special accommodations, please contact, prior to June 4, 1999, Teri Stumpf, Room 1203, Vermont Avenue, NW, Washington, DC 20571, Voice: (202) 565-3502 or TDD (202) 565-3377.

Further Information: For further information, contact Teri Stumpf, Room 1203, 811 Vermont Ave., NW, Washington, DC 20571, (202) 565-3502. Elaine Stangland,

Acting General Counsel.

[FR Doc. 99-13715 Filed 5-28-99; 8:45 am]

BILLING CODE 6690-01-M

FEDERAL COMMUNICATIONS COMMISSION

[DA 99-940; Report No. AUC-99-25-A (Auction No. 25)]

Closed Broadcast Auctions Scheduled for September 28, 1999; Comment Sought on Reserve Prices or Minimum Opening Bids and Other Auction Procedural Issues

AGENCY: Federal Communications Commission.

ACTION: Notice; seeking comment.

SUMMARY: This Public Notice announces the auction of certain AM, FM, TV, LPTV, and FM and TV translator construction permits, to commence on September 28, 1998, and seeks comment on procedural issues relating to the auction.

DATES: Comments are due on or before June 1, 1999. Reply comments are due on or before June 14, 1999.

ADDRESSES: To file formally, parties must submit an original and four copies to the Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, S.W., TW-A325, Washington, D.C. 20554. In addition, parties must submit one copy to Amy Zoslov, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, Room 5202, 2025 M Street N.W., Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Public Reference Room in the Commission's headquarters at 445 Twelfth Street, S.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Lisa Scanlan, Audio Services Division, Mass Media Bureau at (202) 418-2700 or Shaun Maher, Video Services Division, Mass Media Bureau at (202) 418-1600 or Bob Allen, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, at (202) 418-0660.

SUPPLEMENTARY INFORMATION: This Public Notice was released on May 17, 1999, and is available in its entirety, including Attachment A, for inspection and copying during normal business hours in the FCC Public Reference Room in the Commission's headquarters at 445 Twelfth Street, S.W., Washington, D.C. 20554, and also may be purchased from the Commission's copy contractor, International Transcription Services, (202) 857-3800, fax (202) 857-3805, 1231 20th Street, N.W., Washington, D.C. 20036. It is also available on the Commission's website at <http://www.fcc.gov>.

Synopsis of the Public Notice

1. By this Public Notice, the Mass Media Bureau ("MMB") and the Wireless Telecommunications Bureau ("WTB") (collectively, "Bureaus") announce the auction of certain AM, FM, TV, LPTV, and FM and TV translator construction permits to commence September 28, 1999. Specifically, all spectrum to be auctioned is the subject of pending, mutually exclusive applications for

construction permits for the referenced broadcast services, for which the Commission has not approved a settlement agreement that obviates the need for an auction. This includes mutually exclusive applications for full service FM, AM and television stations that were subject to the comparative freeze instituted after the decision of the U.S. Court of Appeals for the District of Columbia in *Bechtel v. FCC*, 10 F.3d 875, 878 (D.C. Cir. 1993). The auction will also include pending mutually exclusive applications for LPTV, FM translator and television translator, as well as certain mutually exclusive LPTV and television translator DTV displacement relief applications. Pursuant to Implementation of Section 309(j) of the Communications Act—Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Service Licenses, First Report and Order in MM Docket No. 97-234, GC Docket No. 92-52 and GEN Docket No. 90-264, 63 FR 48615 ("Broadcast First Report and Order") and Memorandum Opinion and Order, FCC 99-74, 64 FR 24523 ("Broadcast Reconsideration Order"), participation in the auction will be limited to those applicants identified in the Public Notice and applicants will be eligible to bid on only those construction permits for which they filed an appropriate long-form application (FCC Forms 301, 346 or 349).

2. Attachment A to the Public Notice sets forth all mutually exclusive applicant groups ("MX groups") categorized on a service-by-service basis, accompanied by their respective minimum opening bids and upfront payments. All MX groups identified in Attachment A have been subject to competition through the opening and closing of the relevant period for filing competing applications, either through the two-step cut-off list procedures or through an application filing window. Pursuant to the *Broadcast First Report and Order*, those specific situations where both noncommercial and commercial applicants have filed mutually exclusive applications for nonreserved channels are not proceeding to auction at this time, and therefore, these application groups have not been included in Attachment A. In addition, those AM, FM translator, LPTV and television translator applications in "daisy chain" MX groups (where applications are directly mutually exclusive with certain applications in their group but not with others) are not included in this auction. A separate auction for daisy chain MX groups will be announced shortly.

3. Construction permits will be auctioned for each of the MX groups identified in Attachment A. All applications within an MX group are directly mutually exclusive with one another and a single construction permit will be issued for each of those MX groups. The applicants listed in Attachment A are categorized by service as follows: Primary Service Television (full service facilities as set forth in the Commission's television Table of Allotments); Secondary Service Television (secondary service non-Table-based facilities, specifically, television translator and LPTV); FM Radio; FM translator; and AM Radio. The naming conventions employed in Attachment A to identify each MX Group are set forth below:

Primary Service TV: PST
Secondary Service TV: SST
FM Radio: FM
FM Translator: FMT
AM Radio: AM

The total number of long form applications being disposed of in this proceeding is 968. These long form applications are grouped together in a total of 265 MX groups.

4. The Balanced Budget Act of 1997 calls upon the Commission to prescribe methods by which a reasonable reserve price will be required or a minimum opening bid established when FCC licenses or construction permits are subject to auction (i.e., because the applications are mutually exclusive), unless the Commission determines that a reserve price or minimum bid is not in the public interest. Consistent with this mandate, the Commission has directed the Bureaus to seek comment on the use of minimum opening bids and/or reserve prices prior to the start of each broadcast auction. This is consistent with the policy applied in earlier spectrum auctions and is pursuant to the Commission's rules. The Commission has concluded that either or both of these mechanisms may be employed for auctions and has delegated the requisite authority to the Bureaus to make determinations regarding the appropriateness of employing either or both.

5. Normally, a reserve price is an absolute minimum price below which an item will not be sold in a given auction. Reserve prices can be either published or unpublished. A minimum opening bid, on the other hand, is the minimum bid price set at the beginning of the auction below which no bids are accepted. It is generally used to accelerate the competitive bidding process. Also, in a minimum opening bid scenario, the auctioneer generally

has the discretion to lower the amount later in the auction.

6. In anticipation of these auctions and in light of the Balanced Budget Act, the Bureaus propose to establish minimum opening bids. The Bureaus believe a minimum opening bid, which has been utilized in other auctions, is an effective tool in conducting an auction. A minimum opening bid, rather than a reserve price, will help to regulate the pace of the auction. The minimum opening bids will be calculated according to the factors set forth below. A listing of the proposed minimum opening bids for the MX groups can be found in Attachment A of the Public Notice.

7. For full service television construction permits, the Bureaus have based the proposed minimum opening bids upon the type of service that will be offered, market size, industry cash flow data and recent broadcast transactions. For radio construction permits, the Bureaus have based the proposed minimum opening bids upon the service and class of facility that will be offered, the population covered by the proposed facilities for which parties intend to bid and recent broadcast transactions. Comment is sought on this proposal. If commenters believe that the minimum opening bids proposed in Attachment A will result in substantial numbers of unsold construction permits, or, in particular instances, do not constitute reasonable amounts, or that they should instead operate as a reserve price, they should explain why this is so, and comment on the desirability of an alternative approach. Commenters are advised to support their claims with valuation analyses and suggested reserve prices or minimum opening bid levels or formulas. Commenters should detail any alternative method they propose for valuing given spectrum, providing examples and citations for each part of their formula. Alternatively, comment is sought on whether, consistent with the Balanced Budget Act, the public interest would be served by having no minimum opening bids or reserve prices.

II. Other Auction Procedural Issues

8. The Balanced Budget Act requires the Commission to "ensure that, in the scheduling of any competitive bidding under this subsection, an adequate period is allowed * * * before issuance of bidding rules, to permit notice and comment on proposed auction procedures * * *." Consistent with the provisions of the Balanced Budget Act and to ensure that potential bidders have adequate time to familiarize themselves with the specific provisions

that will govern the day-to-day conduct of an auction, the Commission directed the Bureaus, under their existing delegated authority, to seek comment on a variety of auction-specific issues prior to the start of each auction. The Bureaus seek comment on the following issues.

a. Auction Sequence, License Groupings and Auction Design

9. Because the grouping together of construction permit applications by MX groups, as described above, is appropriate for the broadcast services that are the subject of this auction, the Bureaus seek comment on the use of MX groups, as represented in Attachment A, for the awarding of construction permits. Further, because it is most administratively appropriate and allows bidders to take advantage of any synergies that exist among licenses, the Bureaus propose to award the construction permits in a single simultaneous multiple-round auction. The Bureaus seek comment on this proposal.

b. Structure of Bidding Rounds, Activity Requirements, and Criteria for Determining Reductions in Eligibility

10. The Bureaus propose a single stage auction. In order to ensure that auctions close within a reasonable period of time, an activity rule requires bidders to bid actively on a percentage of their maximum bidding eligibility during each round of the auction rather than waiting until the end to participate. A bidder that does not satisfy the activity rule will either lose bidding eligibility in the next round or use an activity rule waiver.

11. The Bureaus propose that, in each round of the auction a bidder desiring to maintain its current eligibility is required to be active on construction permits encompassing one hundred (100) percent of its current bidding eligibility. Failure to maintain the requisite activity level will result in a reduction in the bidder's bidding eligibility in the next round of bidding (unless an activity rule waiver is used). In each round of the auction a bidder's current eligibility will therefore be equal to their activity level in the previous round. The Bureaus seek comment on these proposals.

c. Minimum Accepted Bids

12. Once there is a standing high bid on a construction permit, a bid increment will be applied to that construction permit to establish a minimum acceptable bid for the following round. The Bureaus propose to initially set the bid increment at 10% per bid per construction permit. The

Bureaus retain the discretion to change the methodology for determining the minimum bid increment if they determine that circumstances so dictate. The Bureaus seek comment on this proposal.

d. Initial Maximum Eligibility for Each Bidder

13. The Bureaus have delegated authority and discretion to determine an appropriate upfront payment for each construction permit being auctioned, taking into account such factors as efficiency of the auction process and the potential value of the spectrum. With these guidelines in mind, the Bureaus propose the schedule of upfront payments contained in Attachment A to the Public Notice. The Bureaus seek comment on this proposal.

14. The Bureaus further propose that the amount of the upfront payment submitted by a bidder will determine the initial maximum eligibility (as measured in bidding units) for each bidder. Upfront payments will not be attributed to specific construction permits, but instead will be translated into bidding units to define a bidder's initial eligibility, which cannot be increased during the auction. Thus, in calculating the upfront payment amount, an applicant must determine the maximum number of bidding units it may wish to bid on (or hold high bids on) in any single round, and submit an upfront payment covering that number of bidding units. In this auction, most bidders shall be potentially eligible to bid in relatively few MX groups, or, in some cases, potential eligibility may be limited to one MX group. This is because bidding in any MX group is potentially open only to those applicants that have previously filed a long form application. Nonetheless, in those cases where an applicant has filed qualifying long form applications for more than one MX group, the total of upfront payments tendered will be translated into bidding units to define that bidder's initial maximum eligibility, as explained above.

15. Failure to submit an upfront payment of sufficient size to provide bidding eligibility for every MX group in which an applicant has a pending long form application, will limit the bidding eligibility of that applicant. For example, where a bidder has submitted applications for three construction permits ("A," "B" and "C") and the upfront payment requirements are: "A": \$1,000; "B": \$500; and "C": \$250, once the auction commences, eligibility to bid on construction permit "A" will require 1000 bidding units; with construction permits "B" and "C"

requiring 500 units and 250 units, respectively. If the bidder submits an upfront payment of \$1,000, it may bid on construction permit "A" or on construction permits "B" and "C" in the same round, but not on all three. In this example, the bidder would, however, be eligible to bid on construction permit "A" in the first round of the auction and on "B" and "C" in a later round, so long as the bidder does not have a standing high bid on "A." In the case of this hypothetical bidder submitting an upfront payment of \$500, it could not bid on construction permit "A," (since it would have insufficient bidding units) but would be potentially eligible to pursue construction permits "B" and "C," though not both in the same round (since it would lack sufficient bidding credits). To have unrestricted bidding eligibility in the situation posed by this example, the bidder would have to submit an upfront payment of \$1,750, or enough to acquire sufficient bidding units to bid on or hold high bids on all three construction permits concurrently. The Bureaus seek comment on this proposal.

e. Activity Rule Waivers and Reducing Eligibility

16. Use of an activity rule waiver preserves the bidder's current bidding eligibility despite the bidder's activity in the current round being below the required minimum level. An activity rule waiver applies to an entire round of bidding and not to a particular construction permit. Activity waivers are principally a mechanism for auction participants to avoid the loss of auction eligibility in the event that exigent circumstances prevent them from placing a bid in a particular round.

17. The FCC auction system assumes that bidders with insufficient activity would prefer to use an activity rule waiver (if available) rather than lose bidding eligibility. Therefore, the system will automatically apply a waiver (known as an "automatic waiver") at the end of any bidding period where a bidder's activity level is below the minimum required unless: (1) there are no activity rule waivers available; or (2) the bidder overrides the automatic application of a waiver by reducing eligibility thereby meeting the minimum requirements.

18. A bidder with insufficient activity that wants to reduce its bidding eligibility, rather than use an activity rule waiver, must affirmatively override the automatic waiver mechanism during the bidding period by using the reduce eligibility function in the software. In this case, the bidder's eligibility is permanently reduced to bring the bidder

into compliance with the activity rules as described above. Once eligibility has been reduced, a bidder will not be permitted to regain its lost bidding eligibility.

19. A bidder may proactively use an activity rule waiver as a means to keep the auction open without placing a bid. If a bidder submits a proactive waiver (using the proactive waiver function in the bidding software) during a bidding period in which no bids are submitted, the auction will remain open and the bidder's eligibility will be preserved. An automatic waiver invoked in a round in which there are no new valid bids will not keep the auction open, under the simultaneous stopping rule. The Bureaus propose that each bidder be provided with five activity rule waivers that may be used in any round during the course of the auction. The Bureaus seek comment on this proposal.

f. Information Regarding Bid Withdrawal and Bid Removal

20. The Bureaus propose the following bid removal and bid withdrawal procedures. Before the close of a bidding period, a bidder has the option of removing any bids placed in that round. By using the remove bid function in the software, a bidder may effectively "unsubmit" any bid placed within that round. A bidder removing a bid placed in the same round is not subject to withdrawal payments.

21. Once a round closes, a bidder may no longer remove a bid. However, in the next round, a bidder may withdraw standing high bids submitted in a previous round using the withdraw bid function. A high bidder that withdraws its standing high bid from a previous round is subject to the bid withdrawal payment provisions. The Bureaus seek comment on these bid removal and bid withdrawal procedures.

22. In the *Part 1 Third Report and Order*, the Commission explained that allowing bid withdrawals facilitates efficient aggregation of licenses and the pursuit of efficient backup strategies as information becomes available during the course of an auction. The Commission noted, however, that in some instances bidders may seek to withdraw bids for improper reasons, including to delay the close of the auction for strategic purposes. The Bureau, therefore, has discretion, in managing the auction, to limit the number of withdrawals to prevent strategic delay of the close of the auction or other abuses. The Commission stated that the Bureau should assertively exercise its discretion, consider limiting the number of rounds in which bidders may

withdraw bids, and prevent bidders from bidding on a particular market if the Bureau finds that a bidder is abusing the Commission's bid withdrawal procedures.

23. Applying this reasoning, the Bureaus propose to limit each bidder in the auction to withdrawals in no more than two rounds during the course of the auction. To permit a bidder to withdraw bids in more than two rounds would likely encourage insincere bidding or the use of withdrawals for anti-competitive strategic purposes. The two rounds in which withdrawals are utilized will be at the bidder's discretion; withdrawals otherwise must be in accordance with the Commission's rules. There is no limit on the number of standing high bids that may be withdrawn in either of the rounds in which withdrawals are utilized. Withdrawals will remain subject to the bid withdrawal payment provisions specified in the Commission's rules. The Bureaus seek comment on this proposal.

g. Stopping Rule

24. The Bureaus propose to employ a simultaneous stopping approach. The Bureaus have discretion to establish stopping rules before or during multiple round auctions in order to terminate the auction within a reasonable time. A simultaneous stopping rule means that all construction permits remain open until the first round in which no new acceptable bids, proactive waivers or withdrawals are received. After the first such round, bidding closes simultaneously on all construction permits. Thus, unless circumstances dictate otherwise, bidding would remain open on all construction permits until bidding stops on every construction permit.

25. The Bureaus seek comment on a modified version of the simultaneous stopping rule. The modified stopping rule would close the auction for all licenses after the first round in which no bidder submits a proactive waiver, a withdrawal, or a new bid on any license on which it is not the standing high bidder. Thus, absent any other bidding activity, a bidder placing a new bid on a construction permit for which it is the standing high bidder would not keep the auction open under this modified stopping rule. The Bureaus further seek comment on whether this modified stopping rule should be used.

26. We propose that the Bureaus retain the discretion to keep an auction open even if no new acceptable bids or proactive waivers are submitted and no previous high bids are withdrawn. In this event, the effect will be the same as

if a bidder had submitted a proactive waiver. The activity rule, therefore, will apply as usual and a bidder with insufficient activity will either lose bidding eligibility or use a remaining activity rule waiver.

27. The Bureaus propose to reserve the right to declare that the auction will end after a specified number of additional rounds ("special stopping rule"). If the Bureaus invoke this special stopping rule, it will accept bids in the final round(s) only for construction permits on which the high bid increased in at least one of the preceding specified number of rounds. The Bureaus propose to exercise this option only in certain circumstances, such as, for example, where the auction is proceeding very slowly, there is minimal overall bidding activity, or it appears likely that the auction will not close within a reasonable period of time. Before exercising this option, the Bureaus are likely to attempt to increase the pace of the auction by, for example, increasing the number of bidding rounds per day, and/or increasing the amount of the minimum bid increments for the limited number of construction permits where there is still a high level of bidding activity. The Bureaus seek comment on these proposals.

h. Information Relating to Auction Delay, Suspension or Cancellation

28. The Bureaus propose that, by Public Notice or by announcement during the auction, they may delay, suspend or cancel the auction in the event of natural disaster, technical obstacle, evidence of an auction security breach, unlawful bidding activity, administrative or weather necessity, or for any other reason that affects the fair and competitive conduct of competitive bidding. In such cases, the Bureaus, in their sole discretion, may elect to: resume the auction starting from the beginning of the current round; resume the auction starting from some previous round; or cancel the auction in its entirety. Network interruption may cause the Bureaus to delay or suspend the auction. The Bureaus emphasize that exercise of this authority is solely within the discretion of the Bureaus, and its use is not intended to be a substitute for situations in which bidders may wish to apply their activity rule waivers. The Bureaus seek comment on this proposal.

i. Information Pertaining to Further Auction Details

29. Future public notices will include further details regarding short form (FCC Form 175) application filing and

payment deadlines, a bidder seminar, and other pertinent information.

Federal Communications Commission.

Gerald P. Vaughan,

Deputy Bureau Chief, Wireless
Telecommunications Bureau.

[FR Doc. 99-13768 Filed 5-28-99; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

Public Safety National Coordination Committee

AGENCY: Federal Communications
Commission.

ACTION: Notice.

SUMMARY: This Public Notice advises interested persons of a meeting of the Public Safety National Coordination Committee ("NCC"), which will be held at the Federal Communications Commission in Washington, D.C. The Federal Advisory Committee Act, Public Law 92-463, as amended, requires public notice of all meetings of the NCC. This notice advises interested persons of the second meeting of the Public Safety National Coordination Committee.

DATES: June 18, 1999, from 10:00 a.m. to 5:00 p.m.

ADDRESSES: Federal Communications Commission Meeting Room, Room TW-C305, 445 Twelfth Street, S.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Michael Wilhelm, Wireless Telecommunications Bureau, FCC and Designated Federal Officer of the Public Safety National Coordination Committee (202-418-0680).

SUPPLEMENTARY INFORMATION: Following is the complete text of the Public Notice: The Federal Communications Commission ("FCC") has established the Public Safety National Coordination Committee, pursuant to the provisions of the Federal Advisory Committee Act, to advise the Commission on a variety of issues relating to the use of the 24 MHz of spectrum in the 764-776/794-806 MHz frequency bands (collectively, the 700 MHz band) that has been allocated to public safety services. See The Development of Operational, Technical and Spectrum Requirements For Meeting Federal, State and Local Public Safety Agency Communications Requirements Through the Year 2010 and Establishment of Rules and Requirements For Priority Access Service, WT Docket No. 96-86, First Report and Order and Third Notice of Proposed Rulemaking, FCC 98-191 (1998), 63 FR 58645, November 2, 1998.

The Federal Advisory Committee Act, Public Law 92-463, as amended, requires public notice of all meetings of the NCC. This notice advises interested persons of the second meeting of the Public Safety National Coordination Committee.

SUPPLEMENTARY INFORMATION: The agenda for the second meeting is as follows:

1. Introduction and Welcoming Remarks.
2. Approval of Agenda.
3. Summary of minutes from last meeting.
4. Other Administrative Matters.
5. Reports on Subcommittee Structure, Leadership and Work.
6. Other Business.
7. Upcoming meeting dates and locations.
8. Public Comment.
9. Closing Remarks.

The NCC has an open membership. Previous expressions of interest in membership have been received in response to several Public Notices inviting interested persons to become members and to participate in the NCC's processes. All persons who have previously identified themselves or have been designated as a representative of an organization are deemed members and are invited to attend. All other interested parties are hereby invited to attend and to participate in the NCC processes and its meetings and to become members of the Committee. This policy will ensure balanced participation. Members of the general public may attend the meeting. To attend the second meeting of the Public Safety National Coordination Committee, please RSVP to Solita Griffis or Bertram Weintraub of the Policy and Rules Branch of the Public Safety and Private Wireless Division, Wireless Telecommunications Bureau of the FCC by calling (202) 418-0680, by faxing (202) 418-2643, or by E-mailing at bweintra@fcc.gov or sgriffis@fcc.gov. Please provide your name, the organization you represent, your phone number, fax number and email address. This RSVP is for the purpose of determining the number of people who will attend this second meeting. The FCC will attempt to accommodate as many people as possible. However, admittance will be limited to the seating available. The public may submit written comments to the NCC's Designated Federal Officer, Michael Wilhelm, before the meeting.

Federal Communications Commission
Kathleen O'Brien-Ham,
Deputy Chief, Wireless Telecommunications Bureau
[FR Doc. 99-13748 Filed 5-28-99; 8:41 am]
BILLING CODE 6712-01-U

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW, Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the *Federal Register*.

Agreement No.: 207-011280-002.

Title: Star West Joint Service

Agreement.

Parties:

Albion Reefers Ltd., Overseas Freezer Operators AG.

Synopsis: The proposed modification substitutes Albion Reefers Ltd. in place of The Blue Star Line Ltd. and Overseas Freezer Operators KG in place of Overseas Freezer Operators GmbH.

Dated: May 26, 1999

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary

[FR Doc. 99-13748 Filed 5-28-99; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[Program Announcement 99143]

Program To Build Capacity To Conduct Environmental Health Promotion Activities; Notice of Availability of Funds

A. Purpose

The Agency for Toxic Substances and Disease Registry (ATSDR) announces the availability of fiscal year (FY) 1999 funds for a cooperative agreement program to build the capacity of a national organization to conduct health promotion activities for their members.

This program addresses "Healthy People 2000" in the priority areas of Educational and Community-Based Programs and Environmental Health.

The purpose of this program is to build capacity for the conduct of health professional education and community health promotion activities for its membership.

B. Eligible Applicants

This program is directed only to non-profit national organizations of health professionals that provide environmental health education and environmental public health promotion activities for their defined membership.

Note: Public Law 104-65 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan or any other form.

C. Availability of Funds

Approximately \$1,200,000 is available in FY 99 to fund one award. It is expected that the award will begin on or about September 30, 1999, and will be made for a 12-month budget period within a project period of up to five years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Use of Funds

Funds awarded may be expended for reasonable program purposes, such as personnel, travel, supplies and services, including contractual services. ATSDR funding is generally not to be used for the purchase of furniture or equipment. The direct and primary recipient in a cooperative agreement program must perform a substantive role in carrying out project activities and not merely serve as a conduit for an award to another party or provide funds to an ineligible party.

D. Program Requirements

In conducting activities to achieve the purpose of the program, the recipient shall be responsible for conducting activities under 1 below, and ATSDR will be responsible for conducting activities under 2 below:

1. Recipient Activities

a. Conduct an assessment of health promotion needs, including health professional education needs of the membership.

b. Plan, conduct, and evaluate health professional education and training in

collaboration with state health departments, academic institutions, local health departments, tribal nations, and concerned communities, based on the needs assessment process.

c. Plan and implement health promotion activities, as appropriate based on the needs assessment process.

d. Conduct evaluation of program activities and overall project outcomes and impact.

e. Publish, house and disseminate findings and materials to the membership.

f. Attend and participate in ATSDR's annual partners' meetings.

2. ATSDR Activities

a. Provide technical assistance in conducting the health education and promotion needs assessments.

b. Assist in planning, conducting and evaluating health professional education and health promotion activities.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 30 double-spaced pages, excluding appendices, printed on one side, with one-inch margins, and unrounded font.

F. Submission and Deadline

Submit the original and two copies of PHS 5161 (OMB Number 0937-0189). Forms are in the application kit. On or before July 12, 1999, submit the application to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

Deadline: Applications shall be considered as meeting the deadline if they are either: (a) Received on or before the deadline date; or (b) sent on or before the deadline date and received in time for orderly processing. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications: Applications which do not meet the criteria in (a) or (b) above are considered late applications, will not be considered, and will be returned to the applicant.

G. Evaluation Criteria

The application will be reviewed and evaluated by an ATSDR-convened objective review panel based on the following criteria:

1. Proposed Program—40 percent

a. Clearly stated understanding of the types of environmental health problems to be addressed.

b. Clear and reasonable project goals, and realistic and measurable objectives, including specificity and feasibility of proposed time line for implementing activities.

c. Demonstrated experience in conducting the proposed health education and promotion activities described.

2. Proposed Personnel—20 percent

Demonstrated experience of the proposed staff in conducting environmental health and environmental health care provider capacity needs assessments, developing environmental health education and environmental health promotion materials, implementing environmental health education and environmental health promotion activities, and conducting environmental health program evaluation.

3. Capability—20 percent

a. Ability of applicant to provide a description/documentation of multi-disciplinary, patient-centered, environmental public health promotion/disease prevention approach to patient care.

b. Experience of the applicant in providing quality assurance.

c. Ability of applicant to provide access to established occupational and environmental medical clinics and specialists nationwide.

4. Evaluation Plan—20 percent

a. Extent to which the evaluation plan includes strategies and methods to measure program activities and outcomes of program activities, such as changes in knowledge, attitudes, and behaviors.

b. Extent to which the evaluation plan includes specific approaches and methods to measure overall project effectiveness and impacts, such as achievement of stated environmental public health goals and effect of the program on stated environmental public health problems.

5. Budget—(not scored)

The extent to which the budget relates directly to project activities, is clearly justified, and is consistent with intended use of funds.

H. Other Requirements

Technical Reporting Requirements

Provide Grants Management Branch, Procurement and Grants Office the original plus two copies of:

1. Quarterly progress reports.
2. Financial status report, no more than 90 days after the end of the budget period.

3. Final financial status and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I in the application kit.

AR-9 Paperwork Reduction Act Requirements

AR-10 Smoke-Free Workplace Requirements

AR-11 Healthy People 2000

AR-18 Cost Recovery—ATSDR

AR-19 Third Party Agreements—ATSDR

AR-20 Conference Support

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 104(i), (1)(E), (4), (6), (7), (9), (14) and (15) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended by the Superfund Amendments and Reauthorization Act (SARA) of 1986 (42 U.S.C. 9604(i)(1)(E), (4), (6), (7), (9), (14) and (15)), and Section 3019 (b) and (c) of the Resource Conservation and Recovery Act (RCRA), as amended (Hazardous and Solid Waste Amendments of 1984) (42 U.S.C. 6939a (b) and (c)). The Catalog of Federal Domestic Assistance numbers are 93.200, 93.201, 93.203.

J. Where To Obtain Additional Information

A complete copy of the announcement may be downloaded from CDC's home page on the Internet at: <http://www.cdc.gov> (click on funding).

To receive additional written information and to request an application kit, call 1-888-GRANTS4 (1-888-472-6874). You will be asked to leave your name and address and will be instructed to identify the Announcement number of interest (Announcement 99143). You will receive a complete program description, information on application procedures and application forms.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Nelda

Godfrey, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 99143, Centers for Disease Control and Prevention, 2920 Brandywine Rd., Suite 3000, Atlanta, Georgia 30341-4146, Email address: nag9@cdc.gov, Telephone: (770) 488-2722

For program technical assistance, contact:

Christine Rosheim, D.D.S., M.P.H., Health Education Specialist, Division of Health Education and Promotion, Agency for Toxic Substances and Disease Registry, 1600 Clifton Road, Mailstop E-33, Atlanta, GA 30333, Telephone Number: (404) 639-6351.

Dated: May 25, 1999.

Georgi Jones,

Director, Office of Policy and External Affairs, Agency for Toxic Substances and Disease Registry.

[FR Doc. 99-13742 Filed 5-28-99; 8:45 am]

BILLING CODE 4163-70-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[Program Announcement No. 99081]

Program To Build Capacity To Conduct Environmental Health Education Activities; Notice of Availability of Funds

A. Purpose

The Agency for Toxic Substances and Disease Registry (ATSDR) announces the availability of fiscal year (FY) 1999 funds for a cooperative agreement program to Build Capacity To Conduct Environmental Health Education Activities. This program addresses "Healthy People 2000" in the priority areas of Educational and Community-Based Programs, Environmental Health, and Age-Related Objectives for Children. The purpose of this program is to establish, promote, and disseminate environmental health education programs within an organizations membership.

B. Eligible Applicants

This program is directed only to non-profit national organizations of health professionals that provide environmental health education for their defined membership.

Note: Pub. L. 104-65 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an

award, grant, contract, loan, or cooperative agreement.

C. Availability of Funds

Approximately \$900,000 is available in FY 99 to fund 5-8 awards. The median award is anticipated to be approximately \$150,000, but awards may range from \$75,000 to \$350,000. It is expected that the awards will begin on or about September 30, 1999, and will be made for a 12-month budget period within a project period of up to five years. Funding estimates may change.

Use of Funds

Funds may be expended for reasonable program purposes, such as personnel, travel, supplies and services, including contractual services. ATSDR funding is generally not to be used for the purchase of furniture or equipment. Any equipment purchased will be returned to ATSDR at the end of the funding period. The direct and primary recipient in a cooperative agreement program must perform a substantive role in carrying out project activities and not merely serve as a conduit for an award to another party or provide funds to an ineligible party.

D. Program Requirements

This cooperative agreement comprises a core program and additional optional enhancement activities. In conducting activities to achieve the purpose of the program, a recipient shall be responsible for conducting core activities under 1 and optional enhancement activities under 2 below, and ATSDR will be responsible for conducting activities under 3 below:

1. Recipient Core Activities

a. Develop and implement environmental health education needs assessment process for the applicants' membership.

b. Develop, implement, and evaluate specific environmental health education activities based on the results of the needs assessment process. Such activities should include sharing information about the unique vulnerabilities and special needs of children.

c. Evaluate the effectiveness of each of the implemented activities and the impact of the overall project.

d. Develop a strategy to provide members and constituents environmental health education materials and programs for their reference and use.

e. Communicate identified environmental health needs, concerns, programs, and resources to members and constituent groups.

f. Attend and participate in the annual ATSDR Partners Meetings normally held in Atlanta, Georgia, including assisting in planning and presenting program activities and evaluation results.

2. Optional Recipient Enhancement Program Activities

a. Develop, implement and evaluated health risk communication training to the membership.

b. Develop and implements environmental health education for the members health care providers concerning the health impact of hazardous substances. Potential topics might include: medical and public health responses to bioterrorism and pediatric environmental medicine.

c. Develop a plan for environmental telemedicine educational outreach; develop, implement, and evaluate training related to exposure assessment, health concerns, and community involvement at Brownfields properties for their membership.

d. Develop interactive electronic case studies in environmental medicine.

3. ATSDR Activities

a. Provide technical assistance in conducting needs assessments.

b. Provide information, instructional resources, technical assistance and collaboration for National Priorities List (NPL) site-specific activities and materials.

c. Assist in development of the evaluation plans, such as providing technical assistance in establishment of measurable objectives and evaluation of activities.

d. Provide assistance in establishing communication and resource networks between applicants including such partners as other federal agencies, state and local health departments, tribal governments, environmental and health professional non-governmental organizations, and academic, medical, and clinical associations.

e. Provide technical assistance and collaboration in the dissemination of programs and materials including assistance in the delivery of telemedicine outreach activities.

f. Assist in providing training related to exposure assessment, to health concerns, and community involvement at Brownfields properties.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria Section to develop the application content. All applicants must address the core program in their application. Applicants may address

optional enhancement activities as they may apply to their respective members and their constituencies. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no longer than 25 double-spaced pages (excluding appendices), printed on one side, with one-inch margins, and unrounded font.

F. Submission and Deadline

Submit the original and two copies of PHS 5161 (OMB Number 0937-0189). Forms are in the application kit. On or before July 12, 1999, submit the application to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

Deadline: Applications shall be considered as meeting the deadline if they are either:

- (a) Received on or before the deadline date, or
- (b) Sent on or before the deadline date and received in time for orderly processing. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U. S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late applications: Applications which do not meet the criteria in (a) or (b) above are considered late applications. Late applications will not be considered and will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by ATSDR.

1. Proposed Program—40 percent

- a. Ability to develop environmental health materials and messages for distribution to members and constituents; address specific environmental health concerns; plan, conduct, and evaluate environmental health education or training activities; and collaborate effectively with a variety of public health partners.
- b. Clearly stated understanding of environmental public health problem(s) to be addressed, including the proximity of NPL sites and any special risks to children as a susceptible population.
- c. Clear and reasonable environmental public health goals and clearly stated project objectives which are realistic, measurable, and related to program requirements.
- d. Identification of specific target audiences and their environmental health education and promotion needs.

- e. Specificity and feasibility of the proposed timeline for implementing project activities.

2. Proposed Personnel—20 percent

- a. Ability of the applicant to provide adequate program staff and support staff, including any proposed consultants or contractors.
- b. Experience of proposed staff in conducting needs assessments, developing materials, implementing activities, and conducting program evaluation related to health education and promotion.

3. Capability—20 percent

- a. Appropriateness of the health education activities proposed for the proposed target groups.
- b. Thoroughness of the health education activities proposed.
- c. Plans for collaborative efforts and appropriate letters of support.

4. Evaluation Plan—20 percent

- a. Extent to which the evaluation plan includes strategies and methods to measure program processes and outcomes of program activities, such as changes in participants' knowledge, attitudes, and behaviors.
- b. Extent to which the evaluation plan includes specific approaches and methods to measure overall program effectiveness and impacts, such as achievement of stated public health goals and effect of the program on stated public health problem.

5. Budget—(not scored)

The extent to which the proposed budget is reasonable, clearly justified with a budget narrative, and consistent with the intended use of funds.

H. Other Requirements

Provide CDC with an original plus two copies of the following:

1. Quarterly progress reports are due 30 days after the end of each quarter.
 2. Financial status report, no more than 90 days after the end of the budget period.
 3. Final financial status and performance reports, no more than 90 days after the end of the project period.
- Send all reports to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I in the application kit.

- AR-9 Paperwork Reduction Act Requirements

- AR-10 Smoke-Free Workplace Requirements
AR-11 Healthy People 2000
AR-18 Cost Recovery—ATSDR
AR-19 Third Party Agreements—ATSDR
AR-20 Conference Support

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 101(36), 104(i)(14) and (15) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA) (42 U.S.C. 9601(36), 9604 (i)(14), (15)). The Catalog of Federal Domestic Assistance Number is 93.161.

J. Where To Obtain Additional Information

A complete copy of the announcement may be downloaded from CDC's home page on the Internet at: <http://www.cdc.gov> (click on funding).

To receive additional written information, and to request an application kit, call 1-888-GRANTS4 (1-888-472-6874). You will be asked to leave your name and address and will be instructed to identify the Announcement Number of interest (Announcement 99081). You will receive a complete program description, information on application procedures, and application forms.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Nelda Godfrey, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Suite 3000, Atlanta, GA 30341-4146, Telephone number: (770) 488-2722, e-mail address: nag9@cdc.gov.

Programmatic technical assistance may be obtained from: Christine Rosheim, D.D.S., M.P.H., Health Education Specialist, Division of Health Education and Promotion, Agency for Toxic Substances and Disease Registry, 1600 Clifton Road, Mailstop E-33, Atlanta, GA 30333, Telephone Number: (404) 639-6351.

Dated: May 25, 1999.

Georgi Jones,
Director, Office of Policy and External Affairs,
Agency for Toxic Substances and Disease
Registry.

[FR Doc. 99-13743 Filed 5-28-99; 8:45 am]

BILLING CODE 4163-70-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY-13-99]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639-7090. Send written comments to CDC, Desk Officer, Human Resources and Housing Branch, New Executive Office Building, Room 10235;

Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Projects

1. Evaluation of NCIPC Recommendations on Bicycle Helmet Use—Reinstatement—The National Center for Injury Prevention and Control's (NCIPC), Division of Unintentional Injury Prevention (DUIP) intends to continue to conduct a survey of 1,100 persons from its mailing lists and lists of recipients of recommendations on the use of bicycle helmets in preventing head injuries. These recommendations were published in the Morbidity and Mortality Weekly Report of February 17, 1995.

The purpose of this survey is to determine:

- I. The penetration of the recommendations distribution.
- II. The usefulness of the bicycle helmet recommendations.
- III. How to improve the recommendations' content and format.
- IV. Potential future DUIP bicycle helmet promotional activities.
- V. Information needs and access points of DUIP's "customers".

Results from this research will be used to (1) assist DUIP in producing an updated version of the helmet recommendations; (2) identify new helmet promotion programmatic directions; and (3) develop future materials that meet the needs of DUIP "customers." The study will be a telephone survey. The total annual burden hours are 311.

Forms	Number of respondents	Number of responses/ respondent	Avg. burden/ response (in hrs.)
Section A	1,100	1	.01666
Sections B, C	550	1	.01333
Sections D, E, F	550	1	.01333
Sections G, H, I	1,100	1	.01333

2. Children's Longitudinal Development Study—New—Since 1991, surveillance of children aged three to ten years who have one or more select developmental disabilities (cerebral palsy, mental retardation, hearing impairment, and vision impairment) has been conducted in the five-county Atlanta metropolitan area through the Metropolitan Atlanta Developmental Disabilities Surveillance Program (MADDSP). Children have been identified primarily through the special education programs of the public schools in those five counties. Recently, surveillance has been expanded to identify children with cerebral palsy at younger ages through a broader array of medical facilities where diagnostic evaluations are performed, and to include autism as one of the developmental disabilities routinely under surveillance. An ongoing case-control study is proposed to yearly (1)

contact parents of all children with any of the five developmental disabilities who are newly identified in the surveillance data base and who were born in the metro Atlanta area (approximately 675 children per year) and contact parents of 250 children used as controls in order to request access to both maternal prenatal and labor and delivery hospital records and infant hospital records prior to newborn discharge (all accessed medical records will be reviewed to obtain detailed information on pre- and perinatal risk factors for developmental disabilities; this type of information typically is lacking or incomplete in school records or childhood medical records) and (2) conduct telephone interviews with mothers of approximately 250 children with cerebral palsy or severe mental retardation selected from the larger pool of approximately 675 children, plus interview mothers of the 250 control

children. The interviews will supply additional risk factor information relating to the mothers' medical and reproductive histories, prenatal behaviors and exposures, and family histories of developmental problems. Initially, to be cases, children in the interview sample would be under seven years of age at the time they were diagnosed as having cerebral palsy or severe mental retardation. A sample of Atlanta-born children of similar age and birth weight to the interview case children would be randomly identified from vital records and used as controls. Additionally, photographs and head circumference measurements of case and control mothers and children included in the interview sample will be taken either in the home or at a centralized location. The total annual burden hours are 1,141.

Respondents	Number of respondents	Number of responses/ respondents	Avg. burden/ response (in hrs.)
Mothers:			
Contact Calls*—Cases	675	1	.333
Contact Calls*—Controls	250	1	.333
Scheduling Call**	500	1	.166
Telephone Interview	500	1	1.5

*To obtain consent to participate in the study if there is no response to the letter of invitation

**To schedule telephone interview.

3. Defining Gulf War Illness—New—National Center for Environmental Health (NCEH)—This study will characterize and compare alternative classifications for symptoms and functional disability which remain medically unexplained in Gulf War veterans. This will be accomplished in three phases. Phase I will assess persistence and stability of symptoms over time, as well as compare the performance of data-driven case definitions derived from two samples: (1) The New Jersey Center for

Environmental Hazards Research sample of Gulf War veterans participating in the Department of Veterans Affairs Gulf War Registry; and (2) a cohort of Air Force members from a previous CDC study of Gulf War veterans and Gulf War-era controls from Pennsylvania and Florida. In addition to assessing data-driven case definitions for illness among Gulf War veterans, existing definitions for medically unexplained symptoms, such as chronic fatigue syndrome, multiple chemical sensitivity, and fibromyalgia will be

evaluated. Phase II will attempt to assess the generalizability of both derived and existing case definitions in a random sample of deployed and non-deployed Gulf War era veterans. Phase III will consist of a standardized telephone interview for the assessment of psychiatric conditions. This will be administered to a sample of Phase I and Phase II participants who are identified through their responses to paper-and-pencil questionnaires as having high levels of psychologic distress. The total annual burden hours are 4,761.

Respondents	Number of respondents	Number of responses/ respondent	Avg. burden/ response (in hrs.)
Initial Address Confirmation	50	1	0.333
Introductory Script	7,000	1	.05
Main Questionnaire	5,361	1	.75
Mail Survey	387	1	.05
Refusal Conversion	150	1	.0333
Address Confirmation	200	1	.0333
Third-Party Contact	25	1	.0333
Recontact Script	25	1	.0333
Follow-up Letter	500	1	.083
Follow-up Care	804	1	.10
Request for Medical Records (letter)	1,340	1	.05
Request for Medical Records Follow-up Call	750	1	.0333
Medical Care Providers			
Request for Medical Records (letter)	140	1	1
Request for Medical Records Follow-up Call	42	1	0.0333

Dated: May 24, 1999.

Nancy Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention (CDC)

[FR Doc. 99-13739 Filed 5-28-99; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 99115]

Cooperative Agreement for Strategies to Prevent Genital Herpes Infections: Building a National Prevention Program; Notice of Availability of Funds; Amendment

A notice announcing the availability of fiscal year 1999 funds for the Strategies to Prevent Genital Herpes Infections: Building a National Prevention Program was published in the *Federal Register* on May 18, 1999, (Vol. 64 FR No. 95). The notice is amended as follows:

On page 26983, second column, paragraph G., sub-paragraph titled "Application," replace second sentence:

On or before July 26, 1999, submit application to: Sharron Orum, Grants

Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 99115, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Rd., Room 3000, Atlanta, GA 30341.

Dated: May 25, 1999.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC)

[FR Doc. 99-13741 Filed 5-28-99; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Health and Nutrition Examination Survey III (NHANES) DNA Specimens: Guidelines for Proposals To Use Anonymized Samples and Proposed Cost Schedule

ACTION: Notice and request for comments.

SUMMARY: The National Health and Nutrition Examination Survey (NHANES) is a program of periodic surveys conducted by the National Center for Health Statistics (NCHS) of

the Centers for Disease Control and Prevention (CDC). Examination surveys conducted since 1960 by NCHS have provided national estimates of health and nutritional status of the United States civilian non-institutionalized population. To add to the large amount of information collected for the purpose of describing the health of the population in the most recent survey, white cells were collected in NHANES III in anticipation of advances in genetic research.

The cells have been stored and maintained at the Division of Environmental Health Laboratory Sciences (DEHLS) at the National Center for Environmental Health (NCEH), CDC. The collection of white cells was begun because of the significant advances in the rapidly evolving field of molecular biology that were occurring during the planning phase of this survey.

Technical advances now make it possible to use these samples for genetic analysis. NCHS and NCEH, CDC are making anonymized DNA samples from these specimens available to the research community for such analyses. No cell lines will be made available.

The purpose of this notice is to request comments on this program and cost schedule. After consideration of comments submitted, CDC plans to

finalize the cost schedule and solicit letters of intent and proposals for use of the NHANES III anonymized DNA samples. Please contact Ms. Burwell or go to www.cdc.gov/nchswwww/about/major/nhanes/nhanes.htm for final proposal guidelines and request for letters of intent.

All interested researchers are encouraged to submit letters of intent. No funding is provided as part of this solicitation. DNA samples will not be provided to those projects requiring funding until the project has received funds. Approved projects that do not obtain funding will be canceled. A more complete description of this program follows.

DATES:

- Comment Receipt Date: June 30, 1999
- Invitation to submit Letters of Intent: July 14, 1999
- Letter of Intent Receipt Date: September 1, 1999
- Invitation to Submit Proposals: September 22, 1999
- Application Receipt Date: November 3, 1999
- Scientific Review Date: December 1999
- Institutional Review Date: January 1999
- Notification of approval: January 1999
- Anticipated distribution of samples: February–March 2000.

TO SEND COMMENTS AND FOR

INFORMATION: Audrey L. Burwell, MS, Health Research Administrator, National Center for Health Statistics, Centers for Disease Control and Prevention, 6525 Belcrest Road, Room 1100, Hyattsville, MD 20782, Phone: 301-436-7062, 127. FAX: 301-436-4233, E-Mail: azb2@cdc.gov, Internet: www.cdc.gov/nchswwww/about/major/nhanes/nhanes.htm.

SUPPLEMENTARY INFORMATION: The goals of NHANES are: To estimate the number and percent of persons in the U.S. population and designated subgroups with selected diseases and risk factors; to monitor trends in the prevalence, awareness, treatment and control of selected diseases; to monitor trends in risk behaviors and environmental exposures; to analyze risk factors for selected diseases; to study the relationship between diet, nutrition and health; to explore emerging public health issues and new technologies; and, to establish and maintain a national probability sample of baseline information on health and nutrition status.

The third National Health and Nutrition Examination Survey

(NHANES III) began in the Fall of 1988 and ended in the Fall of 1994. The survey data were collected, and can be analyzed, in two phases: Phase I was conducted from October 1988 to October 1991, and Phase II was conducted from October 1991 to October 1994. Both phases are nationally representative samples. For details of the sampling design see the Plan and Operation of NHANES III (1). This information can be obtained by contacting the Data Dissemination Branch, NCHS at 301-436-8500 or from the Internet at www.cdc.gov/nchswwww/products/catalogs/subjects/nhanes3/nhanes3.htm.

Blood specimens were collected from participants as a part of NHANES III. Lymphocytes were isolated from the blood collected from participants aged 12 years and older and stored frozen in liquid nitrogen or as cell cultures immortalized with Epstein-Barr virus and frozen at the Molecular Biology Branch of DEHLIS, NCEH at the CDC, Atlanta GA. DNA is available primarily from cell lines of Phase II participants.

Health information collected in the NHANES III is kept in strictest confidence. During the informed consent process, survey participants are assured that data collected will be used only for stated purposes and will not be disclosed or released to others without the consent of the individual or the establishment in accordance with section 308(d) of the Public Health Service Act (42 U.S.C. 242m). Although the consent form was signed by participants in the survey and participants consented to storing specimens of their blood for future research, specific mention of genetic research was not included. Given the scientific importance of this resource, the NHANES Institutional Review Board (IRB) approved making anonymized samples of DNA available to the research community for genetic research. For this purpose, an anonymized sample is defined as a sample for which no one, including CDC staff, are able to link the results of the genetic tests back to the survey participant (2). NCHS and NCEH will anonymize the samples for each request.

All proposals for testing of anonymized NHANES III DNA samples will be evaluated by a Genetics Technical Panel (composed of 8–10 scientists; 40 percent from CDC; 30 percent from other Federal agencies and 30 percent non-government scientists) for scientific merit and by the NHANES IRB to assure that anonymity will be maintained, as well as for other human subjects concerns. The NHANES IRB review will be conducted, even though

the investigator may have received review by their home institution. The NHANES IRB must review all projects because determination of anonymity required by this proposal review process can only be accomplished by the NHANES staff who have access to confidential records. Projects recommended for approval by the Genetics Technical Panel and the IRB will be submitted to the Director of NCHS for verification that all appropriate reviews have been conducted.

The Genetics Technical Panel will evaluate the public health significance and scientific merit of the proposed research. Scientific merit will be judged as to the scientific, technical or medical significance of the research, the appropriateness and adequacy of the experimental approach, and the methodology proposed to reach the research goals. See Criteria for Technical Evaluation of Proposals below. The proposer should outline how the results from the DNA analysis will be used. Because NHANES is a complex, multistage probability sample of the national population, the appropriateness of the NHANES sample to address the goals of the proposal will be an important aspect of scientific merit. The Genetics Technical Panel will assure that the proposed project does not go beyond either the general purpose for collecting the samples in the survey, i.e., to determine allele frequencies in subgroups of the population, or of the specific stated goals of the proposal. The Panel will also review an evaluation by the NCHS staff as to whether anonymity can be assured for the proposed project.

Investigators are encouraged to obtain the NHANES III Reference Manuals and Reports and NHANES III Public Use Data (on CD-ROM) These can be obtained by contacting the Data Dissemination Branch, NCHS at 301-436-8500 or from the Internet at www.cdc.gov/nchswwww/products/catalogs/subject/nhanes3/nhanes3.htm.

Because of the complex nature of this Survey, sampling weights are used to make national estimates of frequencies. The use of weights, sampling frame and methods of assessment of variables included in the data tape are likely to affect the proposed research. The Genetics Technical Panel will review the analysis plan and evaluate whether the proposal is an appropriate use of the NHANES III population.

Due to the design of NHANES III, the DNA samples are not suitable for family studies. On average, NHANES III sampled 2 individuals from each household in Phase II. The relationship

between individuals is not available on the data file. If the investigator requires strict assurance that only one subject per household is included among the samples, the investigator should request only one subject per household, and estimate statistical cell sizes by dividing the results from cross tabulations by 2 (see Special Studies procedures below). In this instance, the NCHS staff can use the confidential household code (not available on public use tapes) to select one subject per household for approved projects.

The provided samples will consist of DNA suitable for use in the polymerase chain reaction or other justifiable genetic assessments. No cell lines will be made available. Unique, randomized IDs will be assigned to each set of DNA samples.

Two types of proposals will be evaluated: (a) Those that aim to describe allele frequencies which require only basic demographic information (age, race, and gender) linked to the samples or (b) those where additional co-variables from the NHANES data base are required (special studies).

Age-Race-Gender Studies

To facilitate proposal preparation of allele frequency research, NCHS will make available the following data with the DNA sample: age in 10-year age groups, race-ethnicity (white, black, Mexican-American), gender, mean sample weights for each demographic group and the average design effect. These proposals, therefore, do not need to provide an analysis of NHANES III data to support the anonymization scheme proposed. These data have sufficient sample sizes in each category (the smallest age, race/ethnicity, gender statistical cell contains 62 persons) to preserve anonymity. To further preserve anonymity, only 80 percent of the subjects in each statistical cell will be used.

Proposals submitted for this review will be limited to those requesting samples from within these domains for the identification of the frequency of the genes in the population. These proposals must address all criteria except for the verification that anonymization can be achieved. Because of the limited data associated with the genetic result, a shortened (2-3 pages) proposal is acceptable as long as each of the criteria below are addressed.

Special Studies (Requests for Additional Variables)

Include a list of demographic and clinical variables and specify recoding schemes, if appropriate, that the

principal investigator would like to have linked to the DNA samples to meet the objectives of the study. The combined information on all variables provided to the investigator by CDC must not constitute a unique set of values that could link the DNA samples with participant data on the NHANES III public use data set. Investigators should obtain the NHANES III Public Use Data and should verify prior to submission that anonymity is achievable with the requested set of variables. To obtain the NHANES III Public Use Data contact the Data Dissemination Branch, NCHS at 301-436-8500 or from the Internet at www.cdc.gov/nchswww/products/catalogs/subject/nhanes3/nhanes3.htm.

Recoding is required for continuous variables and may be required for integral variables to assure anonymity. A cross tabulation of all requested variables must be provided, with demonstration that there are at least five individuals in each statistical cell of that cross tabulation. Because the DNA specimens are primarily available on phase II subjects, these analyses should be run using phase II subjects only (SDPPHASE=2). (Household codes are confidential data. Therefore, if only 1 individual per household is to be included in the protocol, the investigator can estimate the sample size per statistical cell by halving the cross tabulation results. For instance, if only 1 individual per household is requested, the minimum statistical cell size of the cross tabulation should be 10 subjects.) From each statistical cell, either 2 subjects or 20 percent of the subjects of the cell, whichever is larger, will be deleted from the pool of samples sent to the investigator. The DNA samples which are sent to the investigator will be selected by the NCHS staff at random from the domain.

All protocols, either for the age-race-gender studies or the special studies, will be reviewed by NCHS staff for anonymity and must be approved by the Genetics Technical Panel and the NHANES IRB. The anonymity of all sample requests, when linked with demographic and clinical data, will be verified prior to release to the investigator.

Applicants may request a project period of up to 3 years. At the end of the project period, any unused samples must be returned to the Bank in accordance with instructions that will be provided. Extensions to the period of performance may be requested.

Procedures for Letter of Intent

After consideration of comments on the program and the cost schedule,

NCHS plans to make requests for letters of intent. This request will be announced on the NHANES web site by July 14, 1999: Internet: www.cdc.gov/nchswww/about/major/nhanes/nhanes.htm. The letter of intent is required to enable CDC to plan the review more efficiently, evaluate the number and magnitude of the requests, and to assess the capacity of the DNA Bank to fulfill requests.

Investigators from both the extramural and the CDC intramural research communities must submit letters of intent. The letter should be no more than two pages and include: a descriptive title of the overall proposed research, the name, address and telephone number of the Principal Investigator, a list of key investigators and their institution(s), one paragraph on the background for the proposal, the genetic assessments proposed, a list of proposed variables, and an estimate of the number of samples that would be requested. The background should state concisely the importance of the research in terms of the broad, long-term objectives and public health relevance.

If the total number of proposals and samples requested from all the letters of intent exceed the handling capacity of the DNA Specimen Bank, a determination of priorities will be made by the Genetics Technical Panel using the letters of intent. Priority will be based on the public health importance of the proposed research and the prevalence of the health outcome(s) targeted by the research.

All investigators will be notified as to whether they should submit a full proposal based on review of the letters of intent.

Letters of intent should be submitted by September 1, 1999, to: Audrey L. Burwell, MS, Health Research Administrator, National Center for Health, Statistics, Centers for Disease Control and Prevention 6525 Belcrest Road, Room 1100, Hyattsville, MD 20782, Phone: 301-436-7062, 127, FAX: 301-436-4233, E-Mail: azb2@cdc.gov.

Procedures for Proposals

After notification by NCHS that a proposal for use of samples and data from the NHANES III DNA-Bank can be submitted, the investigator should use the following format: Proposals are limited to a maximum of 5 single-spaced typed pages, excluding figures and tables, using 10 cpi type density. If a proposal is approved, the title, specific aims, name, and phone number of the author will be maintained by NCHS and released if requested. Unapproved proposals will be returned to the investigator and will not be maintained

by NCHS. The cover of the proposal should include the name, address, and phone number and E-mail address, if available, of the principal investigator (PI) and the name of the institution where the DNA analysis will be done. The cover page should be signed by the responsible institution representative.

The Criteria for Technical Evaluation of Proposals section at the end of this announcement and the following information should be used to develop the proposal content.

1. **Specific Aims**—List the broad objectives; describe concisely and realistically what the research is intended to accomplish, and state the specific hypotheses to be tested.

2. **Background and Public Health Significance**—Briefly describe in 1–2 pages the background of the proposal, identifying gaps in knowledge that the project is intended to fill. State concisely the importance of the research in terms of the broad, long-term objectives and public health relevance including a discussion of how the results will affect health policy or further scientific knowledge. The proposal should include a discussion of the potential clinical significance of the results and whether there is definitive evidence that results of the genetic test would provide grounds for medical intervention.

3. **Research Design and Methods**—Describe the research design and the procedures to be used. A detailed description of laboratory methods must be included with references. If non-standard methods will be used, discuss how the method is more appropriate than current methods or that there are no standard methods to accomplish the task. Laboratory quality control should be described. Include a justification for determination of sample size or a power calculation. A detailed description and justification of any sample design whether a random subsample or case control design, must be given. The program will evaluate the endpoints assessed in these projects to determine whether the projects are consistent with the mission of the NHANES program. Further, the program and IRB are concerned with the possible breach of anonymity due to the determination of a large number of genetic analyses in individual research studies. The specific concern is that, when large numbers of genetic findings are available that are potentially correlated with other NHANES III data, the investigator or program staff might be able to inadvertently identify specific subjects. Therefore, if several genetic analyses are proposed, the investigator must discuss the potential for linking the findings

with NHANES III data on public use tapes that was not requested as part of the proposal. A list of variables requested should be included. A crosstabulation demonstrating the recoding and resulting statistical cell sizes should be included for special studies.

4. **Qualification of Investigators**—A brief description of the Principal Investigator's expertise in the proposed area should be provided, including publications in this area within the last three years. A representative sample of earlier publications may be listed as long as this section does not exceed two pages.

5. **Funding**—The source and status of the funding to perform the requested laboratory analysis should be included. Investigators will be responsible for the cost of processing and shipping the samples. At this time the cost per DNA specimen is \$38.00. The basis for the cost structure is in the last section of this document. Reimbursement for the samples will be collected before the samples are released.

Requirements for the Inclusion of Women and Racial and Ethnic Minorities in Research

In NHANES III, race/ethnicity was defined by self-report as non-Hispanic white, non-Hispanic black, or Mexican American. Individuals who did not self-select into these categories were classified as "other". If the proposal excludes one or more race/ethnic groups or a gender, this exclusion must be justified.

The CDC is also sensitive to the stigmatization of racial/ethnic specific populations through inappropriate reporting and interpretation of findings. For all proposals that request information on race/ethnicity for the samples selected, the investigator should indicate the reason for analyzing race/ethnicity and how the results will be interpreted.

Submission of Proposals

Investigators who are invited to submit proposals should send the original written proposal and 20 copies to: Audrey L. Burwell, MS, Health Research Administrator, National Center for Health Statistics, 6525 Belcrest Rd., Rm 1100, Hyattsville, MD 20782. Phone: (301) 436-7062, 127, FAX: (301) 436-4233, E-Mail: azb2@cdc.gov, Attention: NHANES III Genetic Testing Program.

Criteria for Technical Evaluation of Proposals

The following criteria will be used for technical evaluation of proposals.

1. **Background and Public Health Significance**: The public health significance, scientific merit and practical utility of the assay. The proposer has conveyed how the results will be used and the relationship of the results to the data already collected in NHANES III. Proposer addresses how they will use results of the DNA analyses. The analyses are consistent with the NHANES mission and the health status variables will be evaluated appropriately given the methods of data collection in NHANES III.

2. **Research Design and Methods**: The sampling scheme must be described and address its relationship to the NHANES III design. Power calculations for a subsample must be included. A list of variables requested with the recoding schemes are included. A crosstabulation is provided if the investigator requests a special set of variables. A detailed description of the laboratory methods is included. If a non-standard laboratory method is to be used, its advantage over existing methodology is adequately discussed. The characteristics of the laboratory assay, such as reliability, validity, and "state-of-the-art", must be included with appropriate references. The potential difficulties and limitations of the proposed procedures are discussed. The volume of DNA and the number of samples required are specified. Adequate methods for handling and storage of samples must be addressed. The laboratory has demonstrated the capability for handling the workload requested in the proposal.

3. **Discussion regarding the race/ethnicity and gender variables**: If either race/ethnicity or gender are used to restrict the sample, the proposal gives a clear and compelling rationale for this restriction. On the other hand, if the race/ethnicity variable is requested, the proposer indicates the reason for analyzing race/ethnicity and how the results will be interpreted.

4. **Qualifications**: A brief description of the requestor's expertise in the proposed area is provided including publications in this area within the last three years. A representative sample of earlier publications may be listed as long as this section does not exceed two pages.

5. **Anonymity**: NCHS determination of anonymity has been reviewed and found to be adequate.

6. **Period of performance**—The project period should be specified. The period may be up to three years. At the end of the project period, any unused samples must be returned to the NHANES DNA Specimen Bank in accordance with instructions from the DEHLS.

Extensions to the period of performance may be requested.

Approved Proposals

NCHS/NCEH will provide a data file with the requested recoded variables and a randomly assigned unique identification number that is linked to the DNA specimen. No record connecting the new number with the original identification number will be kept after the samples have been sent. These samples can not be traced to any files maintained by NCHS.

Agency Agreement

A formal signed agreement in the form of a Materials Transfer Agreement (MTA) with individuals who have projects approved will be completed before the release of the samples. This agreement will contain the conditions for use of the DNA as stated in this document and as agreed upon by the investigators and CDC. A key component of this agreement is that no attempt will be made to link the results of the proposed research to any other data, including, but not limited to, the NHANES III public use data set. Also, the investigator agrees that the samples can not be used for commercial purposes.

Progress Reports

A progress report will be submitted annually. NHANES IRB continuation reports are also required annually.

Disposition of Results and Samples

No DNA samples provided can be used for any purpose other than those specifically requested in the proposal and approved by the Genetic Technical Panel and the NHANES IRB. No sample can be shared with others, including other investigators, unless specified in the proposal and so approved. Any unused samples must be returned to the Bank upon completion of the approved project. Researchers requesting DNA samples for age-race-gender studies and special studies will be required to provide NCHS with the results of all DNA tests performed for each anonymized sample. These results, once returned to NCHS, will be part of the public domain. Therefore, ample time will be given to the investigator to publish results prior to reporting the results to NCHS.

Proposed Cost Schedule For Providing NHANES III DNA Specimen Bank

A nominal processing fee of \$38.00 is proposed for each sample received from the NHANES III DNA Specimen Bank. The costs are determined both for NCEH and NCHS and include the physical materials needed to process the samples

at the NCEH laboratory as well as the materials to process the requests for samples at NCHS. These costs are inclusive of the staff needed for these activities at each Center. The fee is estimated to cover the costs of processing, handling and preparing the samples in accordance with the detailed requirements of the investigators. These costs were based on an assumption that NCEH and NCHS will receive and process 15 proposals in a year each requesting 1000 samples as shown in the table below.

The materials listed are for the recurring laboratory costs to dispense and prepare the samples for shipping; the computer software needed for the Web page and advertisements in scientific journals. Labor costs are based on the need for microbiologists, a proposal administrator and computer programmers for NCHS and NCEH to maintain the data bases and verify anonymity. Technical panel travel and expenses are based on the panel meeting twice a year. The space estimate is based on acquiring storage and aliquoting space.

Total Costs Per Sample if 15 Requests for 1,000 Samples

Materials	\$1.90
Labor	22.00
Panel Travel/Expenses	2.69
Space	0.97
Subtotal	27.56
NCHS overhead (15%)	4.12
Subtotal	31.68
CDC/FMO overhead (20%)	6.32
Total	*38.00

*Shipping costs are not included in the \$38.00 processing fee. These costs must also be paid by the investigator.

Comments are solicited on the proposed cost schedule. Comments are due by June 30, 1999.

Send Comments and for Information

Audrey L. Burwell, MS, Health Research Administrator, National Center for Health Statistics, Centers for Disease Control and Prevention, 6525 Belcrest Road, Room 1100, Hyattsville, MD 20782, Phone: 301-436-7062, 127, FAX: 301-436-4233, E-Mail: azb2@cdc.gov

References

1. Plan and Operation of the Third National Health and Nutrition Examination Survey, 1988-94. National Center for Health Statistics. Vital Health Stat (32) 1994.
2. Clayton EW, Steinberg KK, Khoury MJ, et al. Informed consent for genetic research on stored tissue samples. JAMA 1995;274:1786-1792.

Dated: May 25, 1999.

Joseph R. Carter,

Acting Associate Director for Management And Operation, Centers for Disease Control and Prevention.

[FR Doc. 99-13740 Filed 5-28-99; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Oncologic Drugs Advisory Committee; Amendment of Notice

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an amendment to the notice of meeting of the Oncologic Drugs Advisory Committee. This meeting was announced in the *Federal Register* of May 20, 1999 (64 FR 27581). The meeting will be open to the public. This amendment is being made to change the meeting starting time and the procedures paragraph and to cancel the closed session.

FOR FURTHER INFORMATION CONTACT:

Karen M. Templeton-Somers, Center for Drug Evaluation and Research (HFD-21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-7001, or FDA Advisory Committee Information Line, 1-800-741-8138 (301-443-0572 in the Washington, DC area), code 12542. Please call the Information Line for up-to-date information on this meeting.

SUPPLEMENTARY INFORMATION: In the *Federal Register* of May 20, 1999 (64 FR 27581), FDA announced that a meeting of Oncologic Drugs Advisory Committee would be held on June 7 and 8, 1999. On page 27581, in the third column, the "Date and Time" and "Procedure" portions are amended and on page 27582, in the first column, the "Closed Committee Deliberations" portion is removed to read as follows:

Date and Time: The meeting will be held on June 7, 1999, 9:30 a.m. to 5:30 p.m. and June 8, 1999, 8 a.m. to 5:30 p.m.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by May 28, 1999. Oral presentations from the public will be scheduled between approximately 9:45 a.m. and 10:15 a.m. and 1:45 p.m. and 2 p.m. on June 7, 1999, and between approximately 8:15 a.m. and 8:45 a.m.

on June 8, 1999. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before May 28, 1999, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation. After the scientific presentations, a 15-minute open public session will be conducted for interested persons who have submitted their request to speak by May 28, 1999, to address issues specific to the submission or topic before the committee.

Dated: May 26, 1999.

Michael A. Friedman,

Deputy Commissioner for Operations

[FR Doc. 99-13963 Filed 5-27-99; 4:50 pm]

BILLING CODE 4160-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Council; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of June 1999.

Name: National Advisory Council (NAC) on the National Health Service Corps (NHSC).

Date and Time: Thursday, June 10; 7:30 a.m.-9 p.m., Friday, June 11; 8:30 a.m.-4:30 p.m., Saturday, June 12; 9 a.m.-5 p.m., Sunday, June 13; 8:30 a.m.-10 a.m.

Place: Oklahoma City Marriott, 3233 North West Expressway, Oklahoma City, OK 73112, (405) 842-6633.

The meeting is open to the public.

Agenda: Items will include updates on the NHSC and Scholarships and Loan

Repayments program; HPSA designations; reports from the Dallas field office; State Primary Care Association; and the Department of Health. The meeting will also be discussing their draft to the President "The National Health Service Corps for the 21st Century" in preparation for the year 2000 reauthorization. Site visit will be on Friday, June 11. Transportation for the public will not be available.

For further information, call Ms. Eve Morrow at (301) 594-4144.

Dated: May 26, 1999.

Jane Harrison,

Director, Division of Policy Review and Coordination

[FR Doc. 99-13791 Filed 5-28-99; 8:45 am]

BILLING CODE 4160-15-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request; Evaluation of National Youth Anti-Drug Media Campaign

SUMMARY: Under the provision of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the National Institute on Drug Abuse of the National Institutes of Health submitted to the Office of Management and Budget (OMB) a request to review and approve the information collected listed below. This proposed information collection was previously published in the **Federal Register** on November 30, 1998 on page 65795 and allowed 60-days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented after October 1, 1995,

unless it displays a currently valid OMB control number.

PROPOSED COLLECTION: Title: Evaluation of National Youth Anti-Drug Media Campaign. Type of Information Collection Request: New. Need and Use of Information Collection: The White House Office of National Drug Control Policy has transferred funds to NIDA to conduct an independent, scientifically designed and implemented evaluation of the National Youth Anti-Drug Media Campaign, the first prevention campaign to use paid advertising to discourage youth from drug use. The study will assess the outcomes and impact of the national campaign in reducing illegal drug use among children and adolescents.

For this study, two different surveys will be conducted: (1) The National Survey of Parents and Youth, a cross-sectional household survey; and (2) a Community Longitudinal Study of Parents and Youth in four communities with an ethnographic component. All data will be collected using a combination of computer-assisted personal interviews (CAPI) and audio computer-assisted self-interviews (ACASI). The findings will form the basis of semiannual and annual reports on campaign progress. These reports will provide assistance in improving the national campaign, and will help to establish a rich database of information about the process involved in changing attitudes and behaviors by the mass media.

Frequency of Response: The National Survey of Parents and Youth will be carried out in 6 waves over a three-year period. Each data collection wave will last 6 months. The Community Longitudinal Study will be carried out annually over three years. **Affected Public:** Individuals and households. **Type of Respondent:** Children and parents. The annual reporting burden is as follows:

TABLE 1.—RESPONDENT AND BURDEN ESTIMATE

Type of respondents	Estimated number of respondents	Number of responses per respondent	Average time in hours per response	Estimated total burden hours	Estimated annual hour burden (over 3 years)
National Survey of Youth and Parents (NSPY)					
Screener Respondent	164,754	1	.07	11,533	3,844
Youth 9-11	9,300	1	.58	5,394	1,798
Adolescents 12-18	19,200	1	.75	14,400	4,800
Parents	20,100	1	.92	18,492	6,164
Community Longitudinal Study of Parents and Youth (CLSPY)					
Screener Respondent	28,500	1	.07	1,995	N/A
Youth 9-11	2,150	3	.65	4,193	1,398
Adolescents 12-14	2,150	3	.83	5,354	1,785

TABLE 1.—RESPONDENT AND BURDEN ESTIMATE—Continued

Type of respondents	Estimated number of respondents	Number of responses per respondent	Average time in hours per response	Estimated total burden hours	Estimated annual hour burden (over 3 years)
Parents	3,500	3	1.00	10,500	3,500
Total	² 249,654		.29	71,861	³ 23,289

¹ Respondents are screened in year one only.

² Some number of screener respondents are later also selected for a parent interview. The exact proportion cannot be estimated at this time.

³ This number does not include screening for the CLSPY because screening is done in year one only.

There are no Capital Costs to report. There are no Operating or Maintenance Costs to report. Because of the sensitivity of collecting data from families in households involving children as young as 9 years old, and the importance of minimizing costs for repetitive, return visits to obtain respondent cooperation, NIDA is considering the provision of a reasonable cost incentive to reimburse respondents for their time.

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503. Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Susan L. David, Project Officer, Division of Epidemiology and Prevention Research, National Institute on Drug Abuse, 6001 Executive Blvd., Room 5153, MSC 9589, Bethesda, MD 20892-9589; or call non-toll-free number (301) 443-6504; or fax

to (301) 443-2636; or email your request, including your address, to: sd69t@nih.gov.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

Dated: May 12, 1999.

Laura Rosenthal,

Executive Officer, NIDA.

[FR Doc. 99-13749 Filed 5-28-99; 8:45 am]

BILLING CODE 414E-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552(b)(3)(4) and 552(b)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Eye Institute Special Emphasis Panel.

Date: June 1, 1999.

Time: 2:00 P.M. to 4:00 P.M.

Agenda: To review and evaluate grant applications.

Place: 6120 Executive Blvd. Suite 350, Rockville, MD 20892, (Telephone Conference Call).

Contact Person: Andrew P. Mariani, Chief, Scientific Review Branch, 6120 Executive Blvd, Suite 350, Rockville, MD 20892, 301/496-5561.

This notice is being published less than 15 days prior to the meeting due to the timing

limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: May 23, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99-13754 Filed 5-28-99; 8:45 am]

BILLING CODE 414E-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552(b)(3)(4) and 552(b)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Eye Institute Special Emphasis Panel.

Date: June 1, 1999.

Time: 12:00 PM to 2:00 PM.

Agenda: To review and evaluate grant applications.

Place: 6120 Executive Blvd. Suite 350 Rockville, MD 20892 (telephone Conference Call).

Contact Person: Andrew P. Mariani, chief, Scientific Review Branch, 6120 Executive Blvd, Suite 350, Rockville, MD 20892, 301/496-5561.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: May 23, 1999.

LaVerne Y. Stringfield

Committee Management Officer, NIH

[FR Doc. 99-13755 Filed 5-28-99; 8:45 am]

BILLING CODE 4195-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel NIDA Center for Genetic Studies.

Date: June 10, 1999.

Time: 9:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: Ramada Hotel Bethesda, 8400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Eric Zatman, Contract Review Specialist, Office of Extramural Program Review, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892-9547, (301) 435-1438.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel Development Research Dissemination—(Phase II SBIR).

Date: June 17, 1999.

Time: 10:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Eric Zatman, Contract Review Specialist, Office of Extramural Program Review, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892-9547, (301) 435-1438.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: May 23, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory

Committee Policy, NIH.

[FR Doc. 99-13750 Filed 5-28-99; 8:45 am]

BILLING CODE 4195-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel Genetics of Drug Abuse Vulnerability.

Date: June 1-2, 1999.

Time: 9:00 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Ritz-Carlton Hotel at Pentagon City, 1250 South Hayes Street, Arlington, VA 22202.

Contact Person: Rita Liu, PhD, Health Scientist Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892-9547, (301) 443-2620.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, National Drug Abuse Treatment Clinical Trials Network.

Date: June 22-23, 1999.

Time: 9:00 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Omni Shoreham Hotel, 2500 Calvert Street, NW., Washington, DC 20008.

Contact Person: Susan L. Coyle, PhD, Chief, Clinical Epidemiological and Applied Sciences Review Branch, Office of Extramural Program Review, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892-9547, (301) 443-2620.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel Program Projects Review Committee.

Date: June 29, 1999.

Time: 8:30 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Key Bridge Marriott, 1401 Lee Highway, Arlington, VA 22209.

Contact Person: Rita Liu, PhD, Health Scientist Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892-9547, (301) 443-2620.

Name of Committee: National Institute on Drug Abuse Initial Review Group Treatment Research Subcommittee.

Date: June 29-30, 1999.

Time: 9:00 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, MD 20878.

Contact Person: Kesinee Nimit, MD, Health Scientist Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892-9547, (301) 435-1432.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel Centers Review Committee.

Date: June 30, 1999.

Time: 8:30 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Key Bridge Marriott, 1401 Lee Highway, Arlington, VA 22209.

Contact Person: Rita Liu, PhD, Health Scientist Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892-9547, (301) 443-2620.

Name of Committee: National Institute on Drug Abuse Initial Review Group Training and Career Development Subcommittee.

Date: July 7-9, 1999.

Time: 9:00 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda One, Bethesda Metro Center Bethesda, MD 20814.

Contact Person: Mark Swieter, PhD, Health Scientist Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892-9547 (301) 435-1389.

Name of Committee: National Institute on Drug Abuse Initial Review Group Health Services Research Subcommittee.

Date: July 14, 1999.

Time: 9:00 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Omni Shoreham Hotel, 2500 Calvert Street, NW, Washington, DC 20008.

Contact Person: Marina L. Volkov, PH.D. Special Assistant, Office of Extramural Program Review, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892-9547 (301) 435-1433.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel Research on Drug Courts.

Date: July 19-20, 1999.

Time: 9:00 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Marina L. Volkov, PH.D. Special Assistant, Office of Extramural Program Review, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892-9547, (301) 435-1433.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: May 23, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy, NIH.

[FR Doc. 99-13751 Filed 5-28-99; 8:45 am]

BILLING CODE 9145-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special

Emphasis Panel Statistical and Clinical Coordinating Center: Collaborative Tolerance Research Network and Autoimmunity Centers of Excellence.

Date: July 13, 1999.

Time: 8:30 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Stanley C. Oaks, Jr., Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Solar Building, Room 4C06, 9000 Rockville Pike, MSC 7610, Bethesda, MD 20892-7610, 301-496-7042, so14s@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 23, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy, NIH.

[FR Doc. 99-13752 Filed 5-28-99; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel Special Emphasis Panel (SEP): Small Grants in Sociology and Psychology.

Date: June 11, 1999.

Time: 9:00 AM to Adjournment.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites, Chevy Chase Pavilion, 4300 Military Rd., Wisconsin at Western Ave., Washington, DC 20015.

Contact Person: Mary Ann Guadagno, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496-9666.

Name of Committee: National Institute on Aging Special Emphasis Panel,

Investigational New Drug Toxicology for Drugs to Treat AD.

Date: June 23, 1999.

Time: 1:00 PM to Adjournment.

Agenda: To review and evaluate grant applications.

Place: 7201 Wisconsin Avenue, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Paul Lenz, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496-9666.

Name of Committee: National Institute on Aging Special Emphasis Panel Cellular Senescence and Control of Cell Proliferation.

Date: July 8, 1999.

Time: 9:30 AM to Adjournment.

Agenda: To review and evaluate grant applications.

Place: 7201 Wisconsin Avenue, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: William A. Kachadorian, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496-9666.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: May 23, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99-13753 Filed 5-28-99; 8:45 am]

BILLING CODE 4146-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel Conference Grant (R13).

Date: June 9, 1999.

Time: 2:00 PM to 3:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIEHS-East Campus, 79 TW Alexander Drive, Building 4401, Room 3446, Research Triangle Park, NC 27709 (Telephone Conference Call).

Contact Person: J. Patrick Mastin, PH.D., 79 Alexander Drive, Research Triangle Park, NC 27709, (919) 541-1446

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS)

Dated: May 24, 1999

LaVerne Y. Stringfield,

Committee Management Officer, NIH

[FR Doc. 99-13757 Filed 5-28-99; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health: Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel Service Research Review.

Date: June 8-9, 1999.

Time: 8:30 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Gerald E. Calderone, PH.D., Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Rm. 6150, MSC 9608, Bethesda, MD 20892-9608, 301-443-1340.

This notice is being published less than 15 days prior to the meeting due to the timing

limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: May 25, 1999

LaVerne Y. Stringfield,

Committee Management Officer, NIH

[FR Doc. 99-13758 Filed 5-28-99; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine

Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The portions of the meeting devoted to the review and evaluation of journals for potential indexing by the National Library of Medicine will be closed to the public in accordance with the provisions set forth in section 552b(c)(9)(B), Title 5 U.S.C., as amended. Premature disclosure of the titles of the journals as potential titles to be indexed by the National Library of Medicine, the discussions, and the presence of individuals associated with these publications could significantly frustrate the review and evaluation of individual journals.

Name of Committee: Literature Selection Technical Review Committee

Date: June 10-11, 1999

Open: June 10, 1999, 9:00 AM to 11:00 AM.

Agenda: Administrative reports and program developments.

Place: National Library of Medicine, 8600 Rockville Pike, Board Room, Bethesda, MD 20894.

Closed: June 10, 1999, 11:00 AM to 5:00 PM.

Agenda: To review and evaluate journals as potential titles to be indexed by the National Library of Medicine.

Place: National Library of Medicine, 8600 Rockville Pike, Board Room, Bethesda, MD 20894.

Closed: June 11, 1999, 8:30 AM to 12:30 PM

Agenda: To review and evaluate journals as potential titles to be indexed by the National Library of Medicine.

Place: National Library of Medicine, 8600 Rockville Pike, Board Room, Bethesda, MD 20894.

Contact Person: Sheldon Kotzin, BA, Chief, Bibliographic Services Division, Division of Library Operations, National Library of Medicine, 8600 Rockville Pike, Bldg 38A, Room 4N419, Bethesda, MD 20894.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: May 23, 1999

LaVerne Y. Stringfield,

Committee Management Officer, NIH

[FR Doc. 99-13756 Filed 5-28-99; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4441-N-26]

Notice of Submission of Proposed Information Collection to OMB; National Partnership for Reinventing Government Customer Satisfaction Survey

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for emergency review and approval, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments Due Date: June 7, 1999.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within seven (7) days from the date of this Notice. Comments should refer to the proposal by name and should be sent to: Joseph F. Lackey, Jr., HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone (202) 708-2374. This is not a toll-free number. Copies of available documents

submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: This Notice informs the public that the Department of Housing and Urban Development (HUD) has submitted to OMB, for emergency processing, an information collection package with respect to participation in the first-ever government-wide customer satisfaction survey to assess the progress made by federal agencies in improving customer service. This emergency processing is essential for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35):

(1) Title of the Information Collection Proposal

National Partnership for Reinventing Government Customer Satisfaction Survey. HUD is joining a number of other federal agencies to participate in this government-wide survey.

(2) Summary of the Collection of Information

(a) Potential respondents will be asked to provide information regarding their assessment of HUD's performance in administering programmatic activities, as related to the Real Estate Assessment Center and the Section 8 Financial Management Center.

(b) HUD's participation in this government-wide customer satisfaction survey will result in benchmarking that will allow the Department to compare its work against the "best in the business."

(3) Description of the Need for the Information and Its Proposed Use

The information collection is essential so that HUD can establish benchmarking to improve its service to customers.

(4) Description of the Likely Respondents, Including the Estimated Number of Likely Respondents, and Proposed Frequency of Response to the Collection of Information

The estimated number of respondents for all collections pertaining to this request is 1,000. The proposed frequency of the response to the collection of information is one-time.

(5) Estimate of the Total Reporting and Recordkeeping Burden That Will Result From the Collection of Information

Number of respondents: 1,000.
Total burden hours: 250.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: May 25, 1999.

David S. Cristy,

Director, Information Technology Capital Planning Staff.

[FR Doc. 99-13738 Filed 5-28-99; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF INTERIOR

Office of the Secretary

Delaware and Lehigh Navigation Canal National Heritage Corridor Commission Meeting

AGENCY: Office of the Secretary, Department of Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces an upcoming meeting of the Delaware and Lehigh Navigation Canal National Heritage Corridor Commission. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92-463).

Meeting Date and Time: Friday, June 11, 1999; 1:30-4 p.m.

Address: Sand Island Icehouse, 56 River Street, Bethlehem PA 18018.

The agenda for the meeting will focus on implementation of the Management Action Plan for the Delaware and Lehigh National Heritage Corridor and State Heritage Park. The Commission was established to assist the Commonwealth of Pennsylvania and its political subdivisions in planning and implementing an integrated strategy for protecting and promoting cultural, historic and natural resources. The Commission reports to the Secretary of the Interior and to Congress.

SUPPLEMENTARY INFORMATION: The Delaware and Lehigh Navigation Canal National Heritage Corridor Commission was established by Public Law 100-692, November 18, 1988 and extended through Pub. L. 105-355, November 13, 1998. Also within this new legislation, the Delaware & Lehigh Navigation Canal National Heritage Corridor Commission has officially changed its name to the Delaware & Lehigh National Heritage Corridor Commission.

FOR FURTHER INFORMATION CONTACT: Denise G. Holub, Chief Financial Officer/Grants Administrator, Delaware and Lehigh National Heritage Corridor Commission, 10 E. Church Street, Room A-208, Bethlehem, PA 18018, (610) 861-9345.

Dated: May 24, 1999.

Denise G. Holub,

Chief Financial Officer/Grants Administrator, Delaware and Lehigh National Heritage Corridor Commission.

[FR Doc. 99-13744 Filed 5-28-99; 8:45 am]

BILLING CODE 5010-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications.

The following applicants have applied for a permit or permit amendment to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

Permit Number TE 839763

Applicant: John O. Whitaker, Jr., Indiana State University, Terre Haute, Indiana.

The applicant requests an amendment to his endangered species scientific take permit number TE 839763 for Indiana bat (*Myotis sodalis*) and gray bat (*Myotis grisescens*) to add activities in Ohio. Activities are proposed for the purpose of enhancement of survival of the species in the wild.

Permit Number TE 838055

Applicant: Ecological Specialists, Inc., St. Peters, Missouri.

The applicant requests an amendment to existing endangered species scientific take permit number TE 838055 to increase the scope of covered activities to include projects in the States of Kentucky and Tennessee. Covered species are the following endangered and threatened unionids: clubshell (*Pleurobema clava*), fanshell (*Cyprogenia stegaria* [= *irrorata*]), fat pocketbook (*Potamilus* [= *Proptera*] *capax*), Higgins' eye pearl mussel (*Lampsilis higginsii*), northern riffleshell (*Epioblasma torulosa rangiana*), orange-foot pimpleback pearl mussel (*Plethobasus cooperianus*), pink mucket pearl mussel (*Lampsilis abrupta* [= *orbiculata*]), Alasmidonta atropurpurea, *Epioblasma nbrevdens*, *Epioblasma capsaeformis*, *Pegias fabula*, *Villosa trabilis*, and winged mapleleaf mussel (*Quadrula fragosa*). Activities are proposed for the purpose of enhancement of survival of the species in the wild.

Written data or comments should be submitted to the Regional Director, U.S. Fish and Wildlife Service, Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111-4056, and must be received within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111-4056. Telephone: (612/713-5343); FAX: (612/713-5292)

Dated: May 25, 1999

Stanley L. Smith,

Regional Director, U.S. Fish and Wildlife Service, Ecological Services Operations, Fort Snelling, Minnesota 55111-4056
 E-mail: Stanley.L.Smith@FWS.gov
 E-mail: 99-137941

BILLING CODE 4310-55-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of Supplemental Findings of No Significant Impact and Supporting Documentation for Incidental Take Permits Previously Issued to Aronov Realty and Management, Incorporated and Fort Morgan Paradise Joint Venture, both in Baldwin County, Alabama

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Fish and Wildlife Service (Service) announces the availability of supplemental Findings of No Significant Impact (FONSI) and supporting documentation for two previously issued incidental take permits. Fort Morgan Paradise Joint Venture received incidental take permit PRT-819464 on December 9, 1996, and Martinique Developers, LLC received incidental take permit PRT-802986 on January 26, 1996, for residential development of properties commonly known as the Beach Club and Martinique on the Gulf, respectively, along the Fort Morgan Peninsula in Baldwin County, Alabama. These incidental take permits authorized the respective permittees to take endangered Alabama beach mice, *Peromyscus polionotus ammobates*, incidentally to otherwise lawful construction activities in consideration of minimization and mitigation of adverse effects to Alabama beach mice, and were issued pursuant to section

10(a)(1)(B) of the Endangered Species Act of 1973, as amended

DATES: Written comments on the Findings of No Significant Impact (FONSI) and supporting documentation, should be sent to the Service's Regional Office (see ADDRESSES) and should be received on or before July 1, 1999.

ADDRESSES: Persons wishing to review the supplemental FONSI and supporting documentation may obtain a copy by writing the Service's Southeast Regional Office, Atlanta, Georgia. Persons who previously commented on the subject projects need not make a request, they will be mailed copies at the time of this notice. Documents will also be available for public inspection by appointment during normal business hours at the Regional Office, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: Endangered Species Permits). Written data or comments concerning the FONSI and supporting documentation should be submitted to the Regional Office. Comments must be submitted in writing to be processed. Please reference permit numbers PRT-802986 and PRT-819464 in such comments, or in requests for the documents discussed herein. Requests for the documents must be in writing to be adequately processed

FOR FURTHER INFORMATION CONTACT: Cynthia K. Dohner, Assistant Regional Director, Ecological Services, Atlanta, Georgia (see ADDRESSES above), telephone: 404/679-4156.

SUPPLEMENTARY INFORMATION: The Alabama beach mouse is currently restricted to the dune systems of Fort Morgan peninsula, on the Gulf Coast of Alabama. Following recent hurricanes, the estimated rangewide habitat known to be occupied by the Alabama beach mouse in the project vicinity is 1,108 acres of primary, secondary and scrub dunes and interdunal areas. This acreage includes consideration of past developments and incidental take permits issued. The supplemental FONSI and supporting documents incorporate new information relative to the effects of hurricanes on Alabama beach mouse populations, additional population surveys, and population viability analyses.

Dated: May 25, 1999

H. Dale Hall,

Deputy Regional Director

IFR Doc. 99-13745 Filed 5-28-99; 8:45 am

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Notice of Intent To Prepare an Environmental Impact Statement for the Colville Confederated Tribes Integrated Resource Management Plan, Colville Indian Reservation, Ferry and Okanogan Counties, Washington

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice

SUMMARY: The Bureau of Indian Affairs (BIA) intends to prepare an Environmental Impact Statement (EIS) for an Integrated Resource Management Plan (IRMP) for the approximately 1,392,265 acre Colville Indian Reservation, as directed in BIA Manual 30, Supplement 10. The planning area is located within both Ferry and Okanogan Counties, Washington. A description of this area and of the proposed action follows as supplementary information. This notice also announces a public scoping meeting for the content of the EIS.

DATES: Comments concerning the scope and implementation of this proposal must be received by June 30, 1999. The public hearing will be held on June 15, 1999, from 7 a.m. to 9 p.m.

ADDRESSES: Send comments to John St. Pierre, IRMP Team Leader, Natural Resources Department, Colville Confederated Tribes, P.O. Box 150, Nespelem, Washington 99155, telephone (509) 634-2324. The public scoping meeting will take place at the Nespelem Catholic Longhouse, Nespelem, Washington.

FOR FURTHER INFORMATION CONTACT: John St. Pierre, (509) 634-2324.

SUPPLEMENTARY INFORMATION: The Colville Indian Reservation is home to the Confederated Tribes of the Colville Reservation, which include the Colville, Lakes, San Poil, Nespelem, Southern Okanogan, Moses/Columbia, Palus, Nez Perce, Methow, Chelan, Entiat and Wenatchi Tribes. The reservation is bounded on the west by the Okanogan River, on the south and east by the Columbia River, and on the north by a line separating townships 34 and 35 of the Willamette Meridian. Land on the reservation is divided between fee (20 percent) and trust (80 percent) status. Major land uses include forest (63 percent), open rangeland (20 percent), forest rangeland (10 percent) and agriculture (6 percent). Timber revenues have historically provided from 80 to 90 percent of the tribal budget.

The proposed action is to adopt standards and guidelines, developed

through an IRMP, over a range of outputs and levels of output for resources located on the Colville Indian Reservation. The decision to be made is what standards and guidelines, if any, to adopt for the management of these resources. The proposed action and alternatives must feature the same emphases as the Guidelines for Integrated Resource Management Planning in Indian Country, namely, that each tribe should decide on the resource management philosophy which best fits its needs and develop an appropriate approach to creating its own IRMP. The proposed action and alternatives must also be consistent with the Confederated Tribes' Holistic Goal, enacted by Colville Business Council Resolution Number 1996-23 on January 18, 1996.

Possible alternatives to the proposed action include (1) no action and (2) an alternate plan that meets the emphases of both the Guidelines for Integrated Resource Management Planning and the Tribes' Holistic Goal. Other alternatives, which must respond to specific conditions on the Colville Reservation, may emerge during the scoping process for the EIS.

Resource management issues so far identified include (1) forms of production, (2) sustaining a future resource base, (3) maintaining and building a quality of life based on a unique set of traditions, culture, environment and economy, and (4) creating an environment where members of the tribes can work together to develop an innovative resources management approach.

The BIA invites federal, state, and local agencies, and individuals and organizations who may be interested in or affected by the proposed action to offer information, comments, and assistance in the scoping process for the EIS. This process will include (1) identifying potential issues, (2) identifying issues to be analyzed in depth, (3) eliminating issues that are not significant or that have been covered by a previous environmental process, (4) exploring additional alternatives, (5) identifying potential environmental effects of the proposed action and alternatives, and (6) determining potential cooperating agencies and task assignments.

This notice is published in accordance with § 1503.1 of the Council on Environmental Quality Regulations (40 CFR Parts 1500 through 1508) implementing the procedural requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), and the Department of the Interior Manual

(516 DM 1-6), and is in the exercise of authority delegated to the Assistant Secretary—Indian Affairs by 209 DM 8.

Dated: May 25, 1999.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 99-13691 Filed 5-28-99; 8:45 am]

BILLING CODE 4310-02-U

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Amendment to Approved Tribal-State Compact.

SUMMARY: Pursuant to Section 11 of the Indian Gaming Regulatory Act of 1988, Public Law 100-497, 25 U.S.C. 2710, the Secretary of the Interior shall publish, in the *Federal Register*, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved Amendment V to the Tribal-State Compact for Regulation of Class III Gaming Between the Confederated Tribes of Siletz Indians of Oregon and the State of Oregon, which was executed on March 29, 1999.

DATES: This action is effective June 1, 1999.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, D.C. 20240, (202) 219-4066.

Dated: May 14, 1999.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 99-13727 Filed 5-28-99; 8:45 am]

BILLING CODE 4310-02-P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of amendment to approved Tribal-State Compact.

SUMMARY: Pursuant to Section 11 of the Indian Gaming Regulatory Act of 1988, Public Law 100-497, 25 U.S.C. 2710, the Secretary of the Interior shall publish, in the *Federal Register*, notice of approved Tribal-State Compacts for the purpose of

engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved Amendment V to the Confederated Tribes of the Warm Springs Reservation of Oregon and the State of Oregon Gaming Compact, which was executed on March 29, 1999.

DATES: This action is effective June 1, 1999.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, D.C. 20240, (202) 219-4066.

Dated: May 14, 1999.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 99-13728 Filed 5-28-99; 8:45 am]

BILLING CODE 4310-02-P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of amendment to approved Tribal-State Compact.

SUMMARY: Pursuant to Section 11 of the Indian Gaming Regulatory Act of 1988, Public Law 100-497, 25 U.S.C. 2710, the Secretary of the Interior shall publish, in the *Federal Register*, notice of approved amendments to Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved Amendment VII to the Gaming Compact Between the Confederated Tribes of the Umatilla Indian Reservation and the State of Oregon, which was executed on March 29, 1999.

DATES: This action is effective June 1, 1999.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, D.C. 20240, (202) 219-4066.

Dated: May 14, 1999.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 99-13730 Filed 5-28-99; 8:45 am]

BILLING CODE 4310-02-P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of amendment to approved Tribal-State Compact.

SUMMARY: Pursuant to Section 11 of the Indian Gaming Regulatory Act of 1988, Public Law 100-497, 25 U.S.C. 2710, the Secretary of the Interior shall publish, in the *Federal Register*, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved Amendment V to the Tribal-State Compact for Regulation of Class III Gaming between the Coquille Indian Tribe and the State of Oregon which was executed on March 29, 1999.

DATES: This action is effective June 1, 1999.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, D.C. 20240, (202) 219-4066.

Dated: May 14, 1999

Kevin Gover,

Assistant Secretary—Indian Affairs

[FR Doc. 99-13726 Filed 5-28-99; 8:45 am]

BILLING CODE 4310-02-P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of amendment to approved Tribal-State Compact.

SUMMARY: Pursuant to Section 11 of the Indian Gaming Regulatory Act of 1988, Public Law 100-497, 25 U.S.C. 2710, the Secretary of the Interior shall publish, in the *Federal Register*, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved Amendment VI to the Tribal-State Compact for Regulation of Class III Gaming Between The Klamath Tribes and the State of Oregon, which was executed on March 29, 1999.

DATES: This action is effective June 1, 1999.

FOR FURTHER INFORMATION CONTACT:

George T. Skibine, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, D.C. 20240, (202) 219-4066.

Dated: May 14, 1999

Kevin Gover,

Assistant Secretary—Indian Affairs

[FR Doc. 99-13729 Filed 5-28-99; 8:45 am]

BILLING CODE 4310-02-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO-310-00-1310 24 1A]

Extension of Currently Approved Information Collection; OMB Approval No. 1004-0145

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: The Paperwork Reduction Act requires federal agencies to announce their intentions to request extension of approval for collecting information from individuals. The Bureau of Land Management (BLM) announces its intention to request extension of approval for collecting certain information from entities interested in leasing, exploring for, and producing oil and gas on federal lands. Entities vary from small business to major corporations. BLM uses the information to determine whether the entities meet statutory and regulatory requirements.

DATES: Comments on the proposed information collection must be received by August 2, 1999.

ADDRESSES: Comments may be mailed to: Regulatory Affairs Group (WO-630), Bureau of Land Management, 1849 C St., NW, Mail Stop 401 LS, Washington, DC 20240. Comments may be sent via the Internet to:

WoComment@wo.blm.gov. Please include "Attn: 1004-0145 and your name and address in your Internet address."

Comments may be hand delivered to the Bureau of Land Management Administrative Record, Room 401, 1620 L Street, NW, Washington, D.C. 20036.

Comments will be available for public inspection and review at the L Street address during regular business hours, 7:45 a.m. to 4:15 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Barbara Gamble, Fluid Minerals Group, (202) 452-0338.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 1320.12(a), BLM

is required to provide a 60-day notice in the *Federal Register* concerning a collection of information contained in published current rules and other collection instrument to solicit comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

The Mineral Leasing Act (MLA) of 1920 (30 U.S.C. 181 *et seq.*), gives the Secretary of the Interior responsibility for oil and gas leasing on approximately 570 million acres of public lands and national forests, and private lands where minerals rights have been reserved by the Federal Government. The Act of May 21, 1930 (30 U.S.C. 301-306), authorizes the leasing of oil and gas deposits under railroads and other rights-of-way. The Act of August 7, 1947 (Mineral Leasing Act of Acquired Lands), authorizes the Secretary to lease lands acquired by the United States (30 U.S.C. 341-359).

The regulations at 43 CFR Group 3100 outline procedures for members of the public to submit applications, offers, statements, petitions, and various forms. BLM needs the information requested in the applications, statements, and petitions to determine whether an applicant is qualified to hold a lease to obtain a benefit under the terms of the MLA of 1920 and its subsequent amendments and implementing regulations.

BLM uses the information to determine the eligibility of an applicant to lease, explore for, and produce oil and gas on Federal lands. Applicants may submit information in person or by mail to the proper BLM office or the Department of the Interior, Minerals Management Service. Applicants are required to certify that they are citizens of the United States and do not own or control in excess of 246,080 acres each in public domain and acquired lands of Federal oil and gas leases in a particular State as required by law under 30 U.S.C. 184(d)(1) and in accordance with the regulations at 43 CFR 3101.2 and 3102. Legal descriptions of lands are required

to determine where the involved Federal lands are located. The names and addresses are needed to identify the applicant and allow the authorized officer to ensure that the applicant meets the requirements of the law. An attorney-in-fact or agent signature is needed only if an attorney or agent is filing the information required on behalf of an applicant or lessee. The information required on the statements, petitions, offers, and applications is needed for orderly processing of oil and gas leases and is needed to comply with the terms and conditions of the statutes. BLM also needs the information to determine whether an entity is qualified to hold a lease to obtain a benefit. Attestations to compliance with the regulations concerning parties of interest and qualifications are necessary, subject to criminal sanctions in accordance with 18 U.S.C., Section 1001. If the information contained on the applications, statements, petitions, and offers is not collected, the leasing of oil and gas could not occur to allow a benefit, and millions of dollars in revenue to the Federal Government would be lost.

All information collections in the regulations at 43 CFR Subparts 3000-3120 that do not require a form are covered by this notice. BLM intends to submit these information collections collectively for approval by the Office of Management and Budget as they were originally submitted and approved.

The information required and the time for supplying it are listed below:

Information collection	Estimated burden hours
Notice of option holdings for acreage chargeability	1
Option statement	1
Petition requesting additional time to divest excess acreage	1
Statement showing date, acreage, State in which leases are held	1.5
Statement showing unit agreement entered into if lease is for lands within approved unit	1
Application for waiver, suspension, or reduction of rental or royalty	2
Copy of communitization or drilling agreement	2
Interest held in operating, drilling, or development contracts	2
Application to combine operations or transport oil	1
Application for subsurface storage of oil and gas	1
Statement that heirs and devisees are qualified to hold lease	1

Information collection	Estimated burden hours
Reporting a change of name ..	1
Notification of corporate merger	1
Application for renewing lease ..	1
Application to relinquish lease ..	0.5
Application to reinstate lease ..	0.5
Application for lease located within a right-of-way	1
Application for oil and gas exploration permit in Alaska ..	1
Reporting date of exploration activities	1
Reporting completion of operations	1

Based on its experience managing oil and gas leasing activities, BLM estimates an average of 700 respondents annually and a burden hour total of 1400 hours annually. Respondents range from individuals and small businesses to major corporations.

All responses to this notice will be summarized and included in the request for Office of Management and Budget for approval. All comments will also become part of the public record.

Dated: May 26, 1999.

Carole J. Smith,

Information Clearance Officer.

[FR Doc. 99-13773 Filed 5-28-99; 8:45 am]

BULLETIN CODE 4316-BLM

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID-010-1220-00]

Notice of Temporary Closure to Off-Highway Vehicle Use Near Grand View, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of temporary closure to off-highway vehicle use near Grand View, Idaho.

SUMMARY: This notice closes approximately 1,450 acres to off-highway vehicle (OHV) use to protect rare plants in and around the Mud Flat Oolite Area of Critical Environmental Concern/Research Natural Area (ACEC/RNA). The unique sandstone cliffs that are prominent within the area also provide habitat for wildlife, including nesting raptors. Sometime prior to April 18, 1999, numerous off-highway vehicles traveled cross-country in this area. This off-road vehicle use caused adverse impacts to vegetation, including rare plant communities. BLM reserves the right to use or authorize use of roads and trails or off-road travel for administrative purposes. The closed

area falls within the following-described public lands:

Boise Meridian, Idaho

T. 7 S., R. 2 E., section 1: SE $\frac{1}{4}$ SE $\frac{1}{4}$;

Section 12: NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$;

T. 7 S., R. 3 E., section 4: Lots 2-4, S $\frac{1}{2}$ NW $\frac{1}{4}$;

Section 5: Lots 1-4, S $\frac{1}{2}$ N $\frac{1}{2}$, SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$;

Section 6: Lots 1, 2, 6, 7, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$;

Section 7: Lots 1-3, W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$.

To prevent further damage from off-road vehicle use, the boundaries will be fenced and signed identifying the closed area. The legal authority for this action can be found at 43 CFR 8341.2.

DATES: This closure will begin June 1, 1999 and remain in effect pending completion of an amendment to the Bruneau Resource Area Management Framework Plan that addresses OHV use in the Resource Area. This Plan Amendment is expected to be completed by the fall of 2000.

ADDRESSES: Copies of maps that outline the closed area are available at the Bureau of Land Management, Lower Snake River District, 3948 Development Avenue, Boise, ID 83705.

FOR FURTHER INFORMATION CONTACT:

Jamie Connell, Bruneau Resource Area, at (208) 384-3330.

SUPPLEMENTARY INFORMATION: The 1,450 acre habitat includes the Mud Flat Oolite ACEC/RNA, designated by the 1992 Bruneau Management Framework Plan Amendment. Several BLM sensitive plant species are known to exist within the 1,450 acre area including Packard's buckwheat (*Eriogonum shockleyi* var. *packardae*), Mulford's milkvetch (*Astragalus mulfordiae*), white eatonella (*Eatonella nivea*), white-margined wax plant (*Glyptopleura marginata*), rigid threadbush (*Nemacladus rigidus*), and Snake River milkvetch (*Astragalus purshii* var. *ophiogenes*).

The U.S. Fish and Wildlife Service is currently reviewing the status of Mulford's milkvetch for possible listing as a threatened or endangered species. Most of the area is currently not designated and therefore open to OHV use as documented in the Bruneau Management Framework Plan completed in 1983.

Dated: May 21, 1999.

Jamie E. Connell,

Acting Bruneau Area Manager.

[FR Doc. 99-13579 Filed 5-28-99; 8:45 am]

BULLETIN CODE 4316-BLM

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

(NV-930-1430-01; N-61701)

Notice of Realty Action; Nevada

AGENCY: Bureau of Land Management.

ACTION: Notice.

SUMMARY: Notice is hereby given that pursuant to section 209 of the Act of October 21, 1976, 90 Stat. 2757, Midas Joint Venture, a joint venture between Franco-Nevada Mining Corporation, Inc., a Nevada corporation, and Euro-Nevada Mining Corporation, Inc., a Nevada corporation, has applied for conveyance of the Federal mineral estate described as follows:

Mount Diablo Meridian, Nevada

T. 39 N., R. 46 E.,

Sec. 9, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$;Sec. 10, W $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$;Sec. 15, W $\frac{1}{2}$ E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$;Sec. 22, NE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$;Sec. 27, NE $\frac{1}{4}$;Sec. 28, E $\frac{1}{2}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$;Sec. 33, NE $\frac{1}{4}$;Sec. 34, lot 1, SW $\frac{1}{4}$ NW $\frac{1}{4}$.

Comprising 1,597.67 acres, more or less.

FOR FURTHER INFORMATION CONTACT:

Detailed information concerning this action is available for review at the Bureau of Land Management, Elko Field Office, 3900 E. Idaho Street, Elko, Nevada.

SUPPLEMENTARY INFORMATION: Upon publication of this notice in the *Federal Register*, the mineral interests described above will be segregated to the extent that they will not be open to appropriation under the public land laws, including the mining laws. The segregation effect of the application shall terminate upon issuance of a patent or other document of conveyance of such mineral interests, upon final rejection of the application, or two years from the date of filing of the application, whichever occurs first.

Dated: May 18, 1999.

Helen Hankins,

District Manager.

[FR Doc. 99-13713 Filed 5-28-99; 8:45 am]

BILLING CODE 4310-MC-P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Submitted for Office of Management and Budget Review; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice.

SUMMARY: To comply with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), we are notifying you that we have submitted an information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval. We are also soliciting your comments on this ICR which describes the information collection, its expected costs and burden, and how the data will be collected.

DATES: Written comments should be received on or before July 1, 1999.

ADDRESSES: You may submit comments directly to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior (OMB Control Number 1010-0119), 725 17th Street, N.W., Washington, D.C. 20503, telephone (202) 395-7340. Copies of these comments should also be sent to us. The U.S. Postal Service address is Minerals Management Service, Royalty Management Program, Rules and Publications Staff, P.O. Box 25165, MS-3021, Denver, Colorado, 80225-0165; the courier address is Building 85, Room A-613, Denver Federal Center, Denver, Colorado 80225; and the e-Mail address is: RMP.comments@mms.gov.

FOR FURTHER INFORMATION CONTACT: Dennis C. Jones, Rules and Publications Staff, telephone (303) 231-3046, FAX (303) 231-3385, e-Mail Dennis.C.Jones@mms.gov. You may also contact Dennis Jones to obtain a copy of the ICR at no cost.

SUPPLEMENTARY INFORMATION:

Title: Royalty-in-Kind (RIK)

Determination of Need.

OMB Control Number: 1010-0119.

Abstract: The Minerals Management Service on behalf of the Secretary, performs Determinations of Need prior to issuing a Notice of Availability of Sale in the *Federal Register* advising industry of a forthcoming RIK sale. The first step in this process is to issue a *Federal Register* Notice requesting specific information from eligible refiners: location of refinery; desirability of offshore versus onshore crude; type of crude desired (e.g., Wyoming Sweet); ability to obtain long-term supply of desired crude (with supporting documentation such as "denial" by major supplier); ability to obtain desired crude at fair market prices (with supporting documentation that desired oil was not available or equitably priced for the area or region in question); percentage of total refining capacity attributable to Federal oil versus other sources; etc. Feedback from refiners (or

other interested parties, like lease owners or operators) will be used by MMS to assess current marketplace conditions, i.e., whether small, independent refiners have access to ongoing supplies of crude oil at equitable prices.

Burden Statement: The respondent burden for this collection is estimated to average 4 hours per each respondent to provide a written response to the information collection.

Respondents/Affected Entities: Refiners or other interested parties such as lease owners or operators.

Frequency of Response: As necessary.

Estimated Number of Respondents: 25.

Estimated Total Annual Reporting and Recordkeeping Burden: 100 hours.

Comments: Section 3506(c)(2)(A) of the Paperwork Reduction Act requires each agency " * * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information." Agencies must specifically solicit comments to: (a) evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

Send your comments directly to the offices listed under the addresses section of this notice. OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by July 1, 1999.

MMS Information Collection Clearance Officer: Jo Ann Lauterbach, (202) 208-7744.

Dated: May 21, 1999.

Lucy Querques Denett,
Associate Director for Royalty Management.
[FR Doc. 99-13709 Filed 5-28-99; 8:45 am]

BILLING CODE 4310-MC-P

DEPARTMENT OF THE INTERIOR

National Park Service

Telecommunications Facilities; Construction and Operation; Golden Gate National Recreation Area, Marin County, CA

AGENCY: Golden Gate National Recreation Area, NPS, DOI.

ACTION: Public notice.

SUMMARY: Public notice is hereby given that the Golden Gate National Recreation Area proposes to consider the initial application made by Bay Area Cellular Telephone Company, dba, CellularOne to install a wireless communication facility in the Highway 101 right-of-way, above and adjacent to the Alexander Avenue underpass to Highway 101, immediately north of the Golden Gate Bridge in Marin County, CA.

DATES: Comments will be accepted on, or before, July 21, 1999.

ADDRESSES: Interested parties should contact National Park Service, Superintendent's Office, GGNRA, Building 201, Fort Mason, San Francisco, CA 94123. To obtain a copy of the initial application, contact Richard Louthan at (415) 561-4729.

SUPPLEMENTARY INFORMATION: The initial application made by CellularOne requests that a cellular site be constructed in the Highway 101 right-of-way, above and adjacent to the Alexander Avenue underpass to Highway 101, immediately north of the Golden Gate Bridge. The Superintendent will consider and evaluate all comments as a result of this public notice before authorizing CellularOne to proceed beyond the initial application phase of the project review and permitting process.

Dated: May 24, 1999.

Brian O'Neill,

Superintendent, Golden Gate National Recreation Area.

[FR Doc. 99-13849 Filed 5-28-99; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Bay-Delta Advisory Council's Ecosystem Roundtable Meeting

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of meeting.

SUMMARY: The Bay-Delta Advisory Council's (BDAC) Ecosystem

Roundtable will meet on June 16, 1999, to discuss several issues including: Funding recommendations for 1999, an update on the Battle Creek project, a discussion of water acquisition funds, and other issues. A Workshop between the Integration Panel and the Ecosystem Roundtable will be held on June 14, 1999, to discuss 1999 funding recommendations. These meetings are open to the public. Interested persons may make oral statements to the Ecosystem Roundtable or may file written statements for consideration.

DATES: The Ecosystem Roundtable will be held from 9:30 a.m. to 12 p.m. on June 16, and the Workshop will be held from 1 p.m. to 4 p.m. on June 14, 1999.

ADDRESSES: Both meetings will meet at the Resources Building, Room 1131, 1416 Ninth Street, Sacramento, CA 95814.

FOR FURTHER INFORMATION CONTACT: Wendy Halverson Martin, CALFED Bay-Delta Program, at (916) 657-2666. If reasonable accommodation is needed due to a disability, please contact the Equal Employment Opportunity Office at (916) 653-6952 or TDD (916) 653-6934 at least one week prior to the meeting.

SUPPLEMENTARY INFORMATION: The San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta system) is a critically important part of California's natural environment and economy. In recognition of the serious problems facing the region and the complex resource management decisions that must be made, the state of California and the Federal government are working together to stabilize, protect, restore, and enhance the Bay-Delta system. The State and Federal agencies with management and regulatory responsibilities in the Bay-Delta system are working together as CALFED to provide policy direction and oversight for the process.

One area of Bay-Delta management includes the establishment of the joint State-Federal process to develop long-term solutions to problems in the Bay-Delta system related to fish and wildlife, water supply reliability, natural disasters, and water quality. The intent is to develop a comprehensive and balanced plan which addresses all of the resource problems. This effort, the CALFED Bay-Delta Program (Program), is being carried out under the policy direction of CALFED. The Program is exploring and developing a long-term solution for a cooperative planning process that will determine the most appropriate strategy and actions necessary to improve water quality, restore health to the Bay-Delta

ecosystem, provide for a variety of beneficial uses, and minimize Bay-Delta system vulnerability. A group of citizen advisers representing California's agricultural, environmental, urban business, fishing, and other interests who have a stake in finding long-term solutions for the problems affecting the Bay-Delta system has been chartered under the Federal Advisory Committee Act (FACA). The BDAC provides advice to CALFED on the program mission, problems to be addressed, and objectives for the Program. BDAC provides a forum to help ensure public participation, and will review reports and other materials prepared by CALFED staff. BDAC has established a subcommittee called the Ecosystem Roundtable to provide input on annual workplans to implement ecosystem restoration projects and programs.

Minutes of the meeting will be maintained by the Program, Suite 1155, 1416 Ninth Street, Sacramento, CA 95814, and will be available for public inspection during regular business hours, Monday through Friday, within 30 days following the meeting.

Dated: May 25, 1999.

Kirk Rodgers,

Acting Regional Director, Mid-Pacific Region.

[FR Doc. 99-13746 Filed 5-28-99; 8:45 am]

BILLING CODE 4310-04-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-462 (Review)]

Benzyl Paraben From Japan

AGENCY: United States International Trade Commission.

ACTION: Institution of a five-year review concerning the antidumping duty order on benzyl paraben from Japan.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on benzyl paraben from Japan would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;¹ to be assured

¹ No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117-0016/USITC No. 99-5-017. Public reporting burden for the request is estimated to average 7 hours per response. Please send

Continued

of consideration, the deadline for responses is July 21, 1999. Comments on the adequacy of responses may be filed with the Commission by August 16, 1999.

For further information concerning the conduct of this review and rules of general application, consult the Commission's rules of practice and procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the rules of practice and procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 FR 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at <http://www.usitc.gov/rules.htm>.

EFFECTIVE DATE: June 1, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202-205-3193) or Vera Libeau (202-205-3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>).

SUPPLEMENTARY INFORMATION:

Background

On February 13, 1991, the Department of Commerce issued an antidumping duty order on imports of benzyl paraben from Japan (56 FR 5795). The Commission is conducting a review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to this review:

comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The Subject Country in this review is Japan.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determination, the Commission found one Domestic Like Product: benzyl paraben.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission found one Domestic Industry: producers of benzyl paraben.

(5) The Order Date is the date that the antidumping duty order under review became effective. In this review, the Order Date is February 13, 1991.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the review and public service list.—Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the *Federal Register*. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the *Federal Register*. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those

parties authorized to receive BPI under the APO.

Certification.—Pursuant to § 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to § 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is July 21, 1999. Pursuant to § 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is August 16, 1999. All written submissions must conform with the provisions of §§ 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to provide requested information.—Pursuant to § 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification

(or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information to be provided in response to this notice of institution: As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Country that currently export or have exported Subject Merchandise to the United States or other countries since 1990.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 1998 (report quantity data in pounds and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business

association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production; and

(b) The quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) The quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in pounds and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Country accounted for by your firm's(s') imports; and

(b) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Country; and

(c) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in pounds and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise

in the Subject Country accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.61 of the Commission's rules.

By order of the Commission.

Issued: May 24, 1999.

Donna R. Koehnke,

Secretary.

[FR Doc. 99-13846 Filed 5-28-99; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-432 (Review)]

Drafting Machines From Japan

AGENCY: United States International Trade Commission.

Written submissions.—Pursuant to § 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is July 21, 1999. Pursuant to § 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is August 16, 1999. All written submissions must conform with the provisions of §§ 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with §§ 201.16(c) and 207.3 of the

Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to provide requested information.—Pursuant to § 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information to be Provided in Response to This Notice of Institution: As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Country that currently export or have exported Subject Merchandise to the United States or other countries since 1989.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 1998 (report quantity data in units and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production; and

(b) the quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) the quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in units and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Country accounted for by your firm's(s') imports; and

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Country; and

(c) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal

consumption/company transfers of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in units and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Country accounted for by your firm's(s') production; and

(b) the quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission

Issued: May 24, 1999.

Donna R. Koehnke,

Secretary

[FR Doc. 99-13839 Filed 5-28-99; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731-TA-413-415 and 419 (Review)]

Certain Industrial Belts from Germany, Italy, Japan, and Singapore

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the antidumping duty orders on certain industrial belts from Germany, Italy, Japan, and Singapore.

SUMMARY: The Commission hereby gives notice that it has instituted reviews

pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty orders on certain industrial belts from Germany, Italy, Japan, and Singapore would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission: ' to be assured of consideration, the deadline for responses is July 21, 1999. Comments on the adequacy of responses may be filed with the Commission by August 16, 1999.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's rules of practice and procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the rules of practice and procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at

63 FR 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at <http://www.usitc.gov/rules.htm>.

EFFECTIVE DATE: June 1, 1999.

FOR FURTHER INFORMATION CONTACT:

Mary Messer (202-205-3193) or Vera Libeau (202-205-3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>).

SUPPLEMENTARY INFORMATION:

Background.—On the date listed below, the Department of Commerce issued antidumping duty orders on the subject imports:²

Order date	Product/country	Inv. No.	F.R. cite
6/14/89	Industrial belts except synchronous and V/Germany	731-TA-419	54 F.R. 25316
6/14/89	Industrial synchronous and V belts/Italy	731-TA-413	54 F.R. 25313
6/14/89	Industrial belts/Japan	731-TA-414	54 F.R. 25314
6/14/89	Industrial V belts/Singapore	731-TA-415	54 F.R. 25315

The Commission is conducting reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to these reviews:

- (1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.
- (2) The Subject Countries in these reviews are Germany, Italy, Japan, and Singapore.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determinations, two Commissioners defined three Domestic Like Products: (1) All V-type power transmission belts, (2) all synchronous type power transmission belts, and (3) all other types of power transmission belts; two Commissioners found one Domestic Like Product: all industrial belts, excluding automotive belts; one Commissioner defined three Domestic Like Products: (1) All V-type and round type power transmission belts, (2) all synchronous type power transmission belts, and (3) all flat type power transmission belts; and one Commissioner found one Domestic Like Product: all power transmission belts. For purposes of this notice, you should report information separately on each of the following Domestic Like Products:

- (1) All V-type power transmission belts,
- (2) all synchronous type power transmission belts, (3) all other types of power transmission belts, and (4) all industrial belts, excluding automotive belts.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determinations, two Commissioners defined three Domestic Industries: (1) Producers of all V-type power transmission belts, (2) producers of all synchronous type power transmission belts, and (3) producers of all other types of power transmission belts; two Commissioners found one Domestic Industry: producers of all industrial belts, excluding automotive belts; one Commissioner defined three Domestic Industries: (1) Producers of all V-type and round type power transmission belts, (2) producers

¹ No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117-0016/USITC No. 99-5-010. Public reporting burden for the request is estimated

to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

² The Department of Commerce subsequently published corrections to the orders, at 54 FR 32104 (Aug. 4, 1989).

of all synchronous type power transmission belts, and (3) producers of all flat type power transmission belts; and one Commissioner found one Domestic Industry: producers of all power transmission belts. For purposes of this notice, you should report information separately on each of the following Domestic Industries: (1) Producers of all V-type power transmission belts, (2) producers of all synchronous type power transmission belts, (3) producers of all other types of power transmission belts, and (4) producers of all industrial belts, excluding automotive belts.

(5) The Order Date is the date that the antidumping duty orders under review became effective. In these reviews, the Order Date is June 14, 1989.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the reviews and public service list.—Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to § 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In

making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to § 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is July 21, 1999. Pursuant to § 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is August 16, 1999. All written submissions must conform with the provisions of §§ 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability to provide requested information.—Pursuant to § 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to § 776(b) of the Act in making its determinations in the reviews.

INFORMATION TO BE PROVIDED IN RESPONSE TO THIS NOTICE OF INSTITUTION: Please provide the requested information separately for each Domestic Like Product, as defined above, and for each of the products identified by Commerce as Subject Merchandise. If you are a domestic producer, union/worker group, or trade/business association; import/export Subject Merchandise from more than one Subject Country; or produce Subject Merchandise in more than one Subject Country, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent Subject Country. As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product to which your response pertains, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty orders on each Domestic Industry for which you are filing a response in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in § 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of each Domestic Like Product for which you are filing a response. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Countries that currently export or have

exported Subject Merchandise to the United States or other countries since 1988.

(7) If you are a U.S. producer of a Domestic Like Product, provide the following information separately on your firm's operations on each product during calendar year 1998 (report quantity data in pounds and units and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of each Domestic Like Product accounted for by your firm's(s') production; and

(b) The quantity and value of U.S. commercial shipments of each Domestic Like Product produced in your U.S. plant(s); and

(c) The quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in pounds and units and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Countries accounted for by your firm's(s') imports; and

(b) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Countries; and

(c) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1998

(report quantity data in pounds and units and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Countries accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Countries accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for each Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Countries since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Countries, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.61 of the Commission's rules.

Issued: May 24, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99-13843 Filed 5-28-99; 8:45 am]

BILLING CODE 1989-35-F

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731-TA-96, 439-445 (Review)]

Industrial Nitrocellulose from Brazil, China, France, Germany, Japan, Korea, United Kingdom, and Yugoslavia

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the antidumping duty orders on industrial nitrocellulose from Brazil, China, France, Germany, Japan, Korea, United Kingdom, and Yugoslavia.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty orders on industrial nitrocellulose from Brazil, China, France, Germany, Japan, Korea, United Kingdom, and Yugoslavia would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; ¹ to be assured of consideration, the deadline for responses is July 21, 1999. Comments on the adequacy of responses may be filed with the Commission by August 16, 1999.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's rules of practice and procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the rules of practice and procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 F.R. 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at <http://www.usitc.gov/rules.htm>.

EFFECTIVE DATE: June 1, 1999.

¹ No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117-0016/USITC No. 99-5-011. Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

FOR FURTHER INFORMATION CONTACT:

Mary Messer (202-205-3193) or Vera Libeau (202-205-3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting

the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by

accessing its internet server (<http://www.usitc.gov>).

SUPPLEMENTARY INFORMATION:

Background.—On the dates listed below, the Department of Commerce issued antidumping duty orders on the subject imports:

Order date	Product/country	Inv. No.	F.R. cite
8/10/83	Industrial nitrocellulose/France	731-TA-96	48 F.R. 36303.
7/10/90	Industrial nitrocellulose/Brazil	731-TA-439	55 F.R. 28266.
7/10/90	Industrial nitrocellulose/China	731-TA-441	55 F.R. 28267.
7/10/90	Industrial nitrocellulose/Germany	731-TA-444	55 F.R. 28271.
7/10/90	Industrial nitrocellulose/Japan	731-TA-440	55 F.R. 28268.
7/10/90	Industrial nitrocellulose/Korea	731-TA-442	55 F.R. 28266.
7/10/90	Industrial nitrocellulose/United Kingdom	731-TA-443	55 F.R. 28270.
10/16/90	Industrial nitrocellulose/Yugoslavia	731-TA-445	55 F.R. 41870.

The Commission is conducting reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to these reviews:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The Subject Countries in these reviews are Brazil, China, France, Germany, Japan, Korea, United Kingdom, and Yugoslavia.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determinations, the Commission found one Domestic Like Product: industrial nitrocellulose.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission defined one Domestic Industry: producers of industrial nitrocellulose.

(5) The Order Dates are the dates that the antidumping duty orders under

review became effective. In these reviews, the Order Dates are as presented in the preceding tabulation.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the reviews and public service list.—Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to § 207.3 of the Commission's rules, any person submitting information to the

Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to § 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is July 21, 1999. Pursuant to § 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is August 16, 1999. All written submissions must conform with the provisions of §§ 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a

certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability to provide requested information.—Pursuant to § 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

INFORMATION TO BE PROVIDED IN RESPONSE TO THIS NOTICE OF INSTITUTION: If you are a domestic producer, union/worker group, or trade/business association; import/export Subject Merchandise from more than one Subject Country; or produce Subject Merchandise in more than one Subject Country, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent Subject Country. As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty orders on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C.

1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in France that currently export or have exported Subject Merchandise to the United States or other countries since 1982. A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in Brazil, China, Germany, Japan, Korea, United Kingdom, and Yugoslavia that currently export or have exported Subject Merchandise to the United States or other countries since 1989.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on the product during calendar year 1998 (report quantity data in wet pounds and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production; and

(b) The quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) The quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in wet pounds and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including

antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Countries accounted for by your firm's(s') imports; and

(b) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Countries; and

(c) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Countries, provide the following information on that product during calendar year 1998 (report quantity data in wet pounds and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Countries accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Countries accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Countries since the Order Dates, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include

end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Countries, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.61 of the Commission's rules.

Issued: May 24, 1999.

By order of the Commission.

Donna R. Koehnke.

Secretary.

[FR Doc. 99-13844 Filed 5-28-99; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-429 (Review)]

Mechanical Transfer Presses from Japan

AGENCY: United States International Trade Commission.

ACTION: Institution of a five-year review concerning the antidumping duty order on mechanical transfer presses from Japan.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on mechanical transfer presses from Japan would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;¹ to be assured of consideration, the deadline for responses is July 21, 1999. Comments on the adequacy of responses may be filed with the Commission by August 16, 1999. For further

information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 FR 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at <http://www.usitc.gov/rules.htm>.

EFFECTIVE DATE: June 1, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202-205-3193) or Vera Libeau (202-205-3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>).

SUPPLEMENTARY INFORMATION:

Background.—On February 16, 1990, the Department of Commerce issued an antidumping duty order on imports of mechanical transfer presses from Japan (55 FR 5642). The Commission is conducting a review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to this review:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The Subject Country in this review is Japan.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original

determination, the Commission found one Domestic Like Product: all mechanical transfer presses. One Commissioner defined the Domestic Like Product differently.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission found one Domestic Industry: producers of mechanical transfer presses. The Commission excluded one domestic producer, Hitachi-Zosen-Clearing, from the Domestic Industry under the related parties provision. One Commissioner defined the Domestic Industry differently.

(5) The Order Date is the date that the antidumping duty order under review became effective. In this review, the Order Date is February 16, 1990.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the review and public service list.—Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to § 207.3 of the Commission's rules, any person

¹ No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117-0016/USITC No. 99-5-015. Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to § 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is July 21, 1999. Pursuant to § 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is August 16, 1999. All written submissions must conform with the provisions of §§ 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to provide requested information.—Pursuant to § 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the

Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

INFORMATION TO BE PROVIDED IN RESPONSE TO THIS NOTICE OF INSTITUTION: As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Country that currently export or have exported Subject Merchandise to the United States or other countries since 1989.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 1998 (report quantity data in units and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/ which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production; and

(b) The quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) The quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in units and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Country accounted for by your firm's(s') imports; and

(b) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Country; and

(c) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in units and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Country accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an

estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.61 of the Commission's rules.

Issued: May 24, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99-13842 Filed 5-28-99; 8:45 am]

BILLING CODE 1550-36-01

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-455 (Review)]

Multiangle Laser Light-Scattering Instruments From Japan

AGENCY: United States International Trade Commission.

ACTION: Institution of a five-year review concerning the antidumping duty order on multiangle laser light-scattering instruments from Japan.

SUMMARY: The Commission hereby gives notice that it has instituted a review

pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on multiangle laser light-scattering instruments from Japan would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;¹ to be assured of consideration, the deadline for responses is July 21, 1999. Comments on the adequacy of responses may be filed with the Commission by August 16, 1999.

For further information concerning the conduct of this review and rules of general application, consult the Commission's rules of practice and procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the rules of practice and procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 FR 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at <http://www.usitc.gov/rules.htm>.

EFFECTIVE DATE: June 1, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202-205-3193) or Vera Libeau (202-205-3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>).

SUPPLEMENTARY INFORMATION

Background.—On November 19, 1990, the Department of Commerce issued an antidumping duty order on imports of multiangle laser light-scattering instruments from Japan (55 FR 48144). The Commission is conducting a review to determine whether revocation of the

order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to this review:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The Subject Country in this review is Japan.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determination, the Commission found one Domestic Like Product: classical laser light-scattering instruments and components like those within the scope of the investigation.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission found one Domestic Industry: producers of classical laser light-scattering instruments and components like those within the scope of investigation.

(5) The Order Date is the date that the antidumping duty order under review became effective. In this review, the Order Date is November 19, 1990.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the review and public service list.—Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the *Federal Register*. The Secretary will maintain a public service list containing

¹ No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117-0016/USITC No. 99-5-016. Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

the names and addresses of all persons, or their representatives, who are parties to the review.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to § 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to § 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is July 21, 1999. Pursuant to § 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is August 16, 1999. All written submissions must conform with the provisions of §§ 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review

(as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to provide requested information.—Pursuant to § 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

INFORMATION TO BE PROVIDED IN RESPONSE TO THIS NOTICE OF INSTITUTION: As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of

the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Country that currently export or have exported Subject Merchandise to the United States or other countries since 1990.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 1998 (report quantity data in units and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production; and

(b) The quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) The quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in units and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Country accounted for by your firm's(s') imports; and

(b) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Country; and

(c) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on that product during calendar year 1998 (report quantity data in units and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Country accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.61 of the Commission's rules.

Issued: May 24, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99-13845 Filed 5-28-99; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

(Investigations Nos. 731-TA-426-428 (Review))

Small Business Telephone Systems From Japan, Korea, and Taiwan

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the antidumping duty orders on small business telephone systems from Japan, Korea, and Taiwan.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty orders on small business telephone systems from Japan, Korea, and Taiwan would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission:¹ to be assured of consideration, the deadline for responses is July 21, 1999. Comments on the adequacy of responses may be filed with the Commission by August 16, 1999.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's rules of practice and procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the rules of practice and procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 FR 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at <http://www.usitc.gov/rules.htm>.

EFFECTIVE DATE: June 1, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202-205-3193) or Vera

¹ No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117-0016/USITC No. 99-5-014. Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

Libeau (202-205-3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>).

SUPPLEMENTARY INFORMATION:

Background.—On December 11, 1989, the Department of Commerce issued antidumping duty orders on imports of small business telephone systems from Japan and Taiwan (54 FR 50789). On February 7, 1990, the Department of Commerce issued an antidumping duty order on imports of small business telephone systems from Korea (55 FR 4215). The Commission is conducting reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to these reviews:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The Subject Countries in these reviews are Japan, Korea, and Taiwan.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determinations, the Commission found one Domestic Like Product: all equipment dedicated for use in a small business telephone system.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determinations,

the Commission found one Domestic Industry: producers of all equipment dedicated for use in a small business telephone system. The Commission excluded Executone and Inter-Tel from the Domestic Industry on the grounds that their domestic production activities were not sufficient to consider them domestic producers.

(5) The Order Dates are the dates that the antidumping duty orders under review became effective. In the reviews concerning Japan and Taiwan, the Order Date is December 11, 1989. In the review concerning Korea, the Order Date is February 7, 1990.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the reviews and public service list.—Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the *Federal Register*. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the *Federal Register*. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to § 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and

contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to § 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is July 21, 1999. Pursuant to § 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is August 16, 1999. All written submissions must conform with the provisions of §§ 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability to provide requested information.—Pursuant to § 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

INFORMATION TO BE PROVIDED IN RESPONSE TO THIS NOTICE OF INSTITUTION: If you are a domestic producer, union/worker group, or trade/

business association; import/export Subject Merchandise from more than one Subject Country; or produce Subject Merchandise in more than one Subject Country, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent Subject Country. As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty orders on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Countries that currently export or have exported Subject Merchandise to the United States or other countries since 1988.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 1998 (report quantity data in units and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on

an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production; and

(b) The quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) The quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in units and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Countries accounted for by your firm's(s') imports; and

(b) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Countries; and

(c) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in units and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Countries accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Countries accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Countries since the Order Dates, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Countries, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.61 of the Commission's rules.

Issued: May 24, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99-13841 Filed 5-28-99; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701-TA-297 (Review) and 731-TA-422 (Review)]

Steel Rails From Canada

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the countervailing duty and

antidumping duty orders on steel rails from Canada.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the countervailing duty and antidumping duty orders on steel rails from Canada would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission:¹ to be assured of consideration, the deadline for responses is July 21, 1999. Comments on the adequacy of responses may be filed with the Commission by August 16, 1999.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's rules of practice and procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the rules of practice and procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 FR 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at <http://www.usitc.gov/rules.htm>.

EFFECTIVE DATE: June 1, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202-205-3193) or Vera Libeau (202-205-3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>).

SUPPLEMENTARY INFORMATION:

Background.—On September 15, 1989, the Department of Commerce

¹ No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117-0016/U.S.I.T.C. No. 99-5-012. Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

issued an antidumping duty order on imports of steel rails from Canada (54 FR 38263). On September 22, 1989, the Department of Commerce issued a countervailing duty order on imports of steel rails from Canada (54 FR 39032). The Commission is conducting reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is Canada.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determinations, the Commission found one Domestic Like Product: all new rail, excluding light rail. One Commissioner defined the Domestic Like Product differently.

(4) The *Domestic Industry* is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission found one Domestic Industry: producers of all new rail, excluding light rail. One Commissioner defined the Domestic Industry differently.

(5) The *Order Dates* are the dates that the countervailing duty and antidumping duty orders under review became effective. In the review of the antidumping duty order, the Order Date is September 15, 1989. In the review of the countervailing duty order, the Order Date is September 22, 1989.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the reviews and public service list.—Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the *Federal Register*. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the *Federal Register*. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to § 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is July 21, 1999. Pursuant to § 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is

August 16, 1999. All written submissions must conform with the provisions of § 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability to provide requested information.—Pursuant to § 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information to be Provided in Response to this Notice of Institution: As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the countervailing duty and antidumping duty orders on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Country that currently export or have exported Subject Merchandise to the United States or other countries since 1988.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 1998 (report quantity data in short tons and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production; and

(b) The quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) The quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in short tons and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties)

of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Country accounted for by your firm's(s') imports; and

(b) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Country; and

(c) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in short tons and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Country accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country since the Order Dates, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence

and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: May 24, 1999.

Donna R. Koehnke,

Secretary.

[FR Doc. 99-13840 Filed 5-28-99; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a consent decree resolving the liability of Edward J. Edelen, III and The Lakes of Myrtle Beach, Inc. ("Defendants") in *United States of America v. Edward J. Edelen, III, et al.*, Civil Action No. 4:98-1538-22 (D.S.C.), was lodged with the United States District Court for the District of South Carolina on May 3, 1999.

The proposed consent decree concerns alleged violations of the Clean Water Act, 33 U.S.C. 1311, resulting from the unauthorized discharge of dredged or fill materials into waters of the United States at "The Lakes," a residential development in Surfside, Horry County, South Carolina ("Site"). The consent decree enjoins Defendants from discharging dredged or fill material into waters of the United States. The consent decree further requires Defendants to: (a) Preserve in perpetuity all 21.43 acres of jurisdictional wetlands located on the undeveloped portion of the Site, in accordance with a Wetlands Preservation Plan approved by the United States Environmental Protection Agency ("EPA"); (b) obtain title to 400 acres of jurisdictional wetlands in the Waccamaw River watershed and preserve such wetlands in perpetuity (or provide an equivalent amount in mitigation credits), in accordance with a Wetlands Mitigation Plan approved by EPA; and (c) make a \$1,000.00 monetary payment to the United States Treasury.

The Department of Justice will receive written comments relating to the proposed consent decree for a period of thirty (30) days from the date of publication of this notice. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, United States Department of Justice, Attention: H. Michael Semler, Senior Trial Counsel, Environmental Defense Section, PO Box 23986, Washington, D.C. 20026-3986, and should refer to *United States of America v. Edward J. Edelen, III, et al.*, DJ Reference No. 90-5-1-4400.

The proposed consent decree may be examined at the Clerk's Office, United States District Court, Florence Division, 401 West Evan Street, Florence, South Carolina 29503.

Letitia J. Grishaw,

Chief, Environmental Defense Section,
Environment and Natural Resources Division,
United States Department of Justice.

[FR Doc. 99-13716 Filed 5-28-99; 8:45 am]

BILLING CODE 4410-15-M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—The Asymmetrical Digital Subscriber Line Forum ("ADSL")

Notice is hereby given that, on March 23, 1999, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), The Asymmetrical Digital Subscriber Line Forum ("ADSL") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Cadence Design Systems, Livingston, West Lothian, United Kingdom; Chameleon Systems, Sunnyvale, CA; CommTech Corporation, Cranberry, NJ; Duet Technologies, San Jose, CA; Earthlink, Pasadena, CA; Hyundai Electronics, Seoul, Korea; IPM Datacom, Frattamaggiore, Italy; Mitel Semiconductor, Kanata, Ontario, Canada; Northpoint Communications, San Francisco, CA; Radio Shack, Fort Worth, TX; Silicon Automation Systems, Ltd., Bangalor, India; Sumitomo Electric Industries Ltd., Osaka, Japan; Tellabs OY, Espoo,

Finland; Conexant, Pacific Palisades, CA; and xDSL Networks, Inc., Towson, MD have been added as parties to this venture. Also, Rockwell Semiconductor, Pacific Palisades, CA; Telos Technologies, Towson, MD; Matthews Communications, Inc., Richardson, TX; ELSA GmbH, Aachen, Germany; and NITECH, Freehold, NJ have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and The Asymmetrical Digital Subscriber Line Forum ("ADSL") intends to file additional written notification disclosing all changes in membership.

On May 15, 1995, The Asymmetrical Digital Subscriber Line Forum ("ADSL") filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on July 25, 1995 (60 FR 338058).

The last notification was filed with the Department on December 21, 1998. A notice has not yet been published in the **Federal Register**.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 99-13717 Filed 5-28-99; 8:45 am]

BILLING CODE 4410-11-M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—The Asymmetrical Digital Subscriber Line Forum ("ADSL")

Notice is hereby given that, on December 21, 1998, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), The Asymmetrical Digital Subscriber Line Forum ("ADSL") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, 2Wire, Milpitas, CA; Belgacom, Brussels, Belgium; Cirrus Logic, Fremont, CA; Secant Technologies, Research Triangle Park, NC; MCI Worldcom, Richardson, TX; Milgo Solutions, Inc., Sunrise, FL; Nortel Networks, Morrisville, NC; and Alcatel USA, Raleigh, NC have been

added as parties to this venture. Also, MCI Telecommunications, Richardson, TX; Racal Data Group, Sunrise, FL; Bay Networks, Gaithersburg, MD; Nortel, Harlow, Essex, United Kingdom; Yurie Systems, Inc., Landover, MD; Alcatel Telecom, Antwerp, Belgium; DSC Communications, Petaluma, CA; and Netspeed, Austin, TX have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and The Asymmetrical Digital Subscriber Line Forum ("ADSL") intends to file additional written notification disclosing all changes in membership.

On May 15, 1995, the Asymmetrical Digital Subscriber Line Forum ("ADSL") filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on July 25, 1995 (60 FR 338058).

The last notification was filed with the Department on December 8, 1998. A notice has not yet been published in the **Federal Register**.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 99-13718 Filed 5-28-99; 8:45 am]

BILLING CODE 4410-11-M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Frame Relay Forum

Notice is hereby given that, on February 8, 1999, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Frame Relay Forum has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Cyra Systems, Fremont, CA; Larscom, Milpitas, CA; Maker Communications, Framingham, MA; Next Level Communications, Rohnert Park, CA; and Secant Network Technologies, Morrisville, NC have joined as worldwide members. Infinetec Communications, Tulsa, OK and Midwest Information Systems, Maryland Heights, MO have joined as

auditing members. CS Telecom, Cedex, France, has upgraded to worldwide membership. The following member has changed its name: TXPort to Verilink, Madison, AL. Also, CompuServe, Columbus, OH; MICOM Communications, Simi Valley, CA; DSC Communications, Plano, TX; and FastComm Communications, Sterling, VA have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Frame Relay Forum intends to file additional written notification disclosing all changes in membership.

On April 10, 1992, Frame Relay Forum filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the *Federal Register* pursuant to section 6(b) of the Act on July 2, 1992 (57 FR 29537).

The last notification was filed with the Department on October 9, 1998. A notice was published in the *Federal Register* pursuant to section 6(b) of the Act on January 29, 1999 (64 FR 4706).

Constance K. Robinson,
Director of Operations, Antitrust Division.
[FR Doc. 99-13723 Filed 5-28-99; 8:45 am]
BILLING CODE 4110-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—KLA-Tencor Corp.: Intelligent Mask Inspection System

Notice is hereby given that, on March 5, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), KLA-Tencor Corporation: Intelligent Mask Inspection System has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, EUV LLC, Inc., Livermore, CA has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and KLA-Tencor

Corporation: Intelligent Mask Inspection System intends to file additional written notification disclosing all changes in membership.

On December 22, 1998, KLA-Tencor Corporation: Intelligent Mask Inspection System filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the *Federal Register* pursuant to section 6(b) of the Act on February 18, 1999 (64 FR 8124).

Constance K. Robinson,
Director of Operations, Antitrust Division.
[FR Doc. 99-13720 Filed 5-28-99; 8:45 am]
BILLING CODE 4110-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Lightwave Microsystems Corp.

Notice is hereby given that, on January 19, 1999, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Lightwave Microsystems Corporation has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are Lightwave Microsystems Corporation, Santa Clara, CA; and BFGoodrich, Brecksville, OH. The nature and objectives of the venture are to work together to develop technology involving the development of new classes of polymers and novel fabrication approaches, which will be used in designing and manufacturing low-cost devices for routing, amplifying and switching signals in the telecommunications network.

The resulting devices should lead to significantly improved products at a lower cost for signal routing, switching and amplification in telecommunications networks.

Constance K. Robinson,
Director of Operations, Antitrust Division.
[FR Doc. 99-13722 Filed 5-28-99; 8:45 am]
BILLING CODE 4110-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Center for Manufacturing Sciences, Inc. ("NCMS"): Advanced Embedded Passives Technology

Notice is hereby given that, on February 3, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), National Center for Manufacturing Sciences, Inc. ("NCMS"): Advanced Embedded Passive Technology has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, International Business Machines, Endicott, NY has been dropped as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and National Center for Manufacturing Sciences, Inc. ("NCMS"): Advanced Embedded Passives Technology intends to file additional written notification disclosing all changes in membership.

On October 7, 1993, National Center for Manufacturing Sciences, Inc. ("NCMS"): Advanced Embedded Passives Technology filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the *Federal Register* pursuant to section 6(b) of the Act on January 22, 1999 (64 FR 3571).

Constance K. Robinson,
Director of Operations, Antitrust Division.
[FR Doc. 99-13719 Filed 5-28-99; 8:45 am]
BILLING CODE 4410-11-M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Portland Cement Association ("PCA")

Notice is hereby given that, on February 25, 1999, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"),

Portland Cement Association ("PCA") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Mitsubishi Cement Corporation, Ontario, CA; Hanson Permanente Cement, Pleasanton, CA; and Arizona Cement Association, Phoenix, AZ have been added as parties to this venture. Also, Kaiser Cement Corporation, Pleasanton, CA; EPRI Center for Materials Production, Pittsburgh, PA; and RMT, Inc., Madison, WI have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Portland Cement Association ("PCA") intends to file additional written notification disclosing all changes in membership.

On January 7, 1985, Portland Cement Association ("PCA") filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on February 5, 1985 (50 FR 5015).

The last notification was filed with the Department on October 7, 1998. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on January 29, 1999 (64 FR 4709).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 99-13721 Filed 5-28-99; 8:45 am]

BILLING CODE 4110-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated December 14, 1998, and published in the **Federal Register** on December 28, 1998, (63 FR 71156), Eli-Elshohly Laboratories, Inc., Mahmoud A. Elshohly, PhD, 5 Industrial Park Drive, Oxford, Mississippi 38655, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
Amphetamine (1100)	II

Drug	Schedule
Methamphetamine (1105)	II
Cocaine (9041)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Benzoylcegonine (9180)	II
Hydrocodone (9193)	II

The firm plans to bulk manufacture non-deuterated controlled substances for use as analytical standards and deuterated controlled substances for use as internal standards.

DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Eli-Elshohly Laboratories, Inc. to manufacture the listed controlled substance is consistent with the public interest at this time. DEA has investigated Eli-Elshohly Laboratories, Inc. on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: May 19, 1999.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 99-13830 Filed 5-28-99; 8:45 am]

BILLING CODE 4110-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[DEA #179S]

Controlled Substances: 1999 Aggregate Production Quota

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Interim notice establishing a revised 1999 aggregate production quota and request for comments.

SUMMARY: This interim notice establishes a revised 1999 aggregate production quota for secobarbital, a

Schedule II controlled substance in the Controlled Substances Act (CSA).

DATES: This is effective on June 1, 1999. Comments or objections must be received on or before July 1, 1999.

ADDRESSES: Send comments or objections to the Deputy Administrator, Drug Enforcement Administration, Washington, D.C. 20537, Attn: DEA Federal Register Representative (CCR).

FOR FURTHER INFORMATION CONTACT: Frank L. Sapienza, Chief, Drug and Chemical Evaluation Section, Drug Enforcement Administration, Washington, D.C. 20537, Telephone: (202) 307-7183.

SUPPLEMENTARY INFORMATION: Section 306 of the CSA (21 U.S.C. 826) requires that the Attorney General establish aggregate production quotas for each basic class of controlled substance listed in Schedules I and II each year. This responsibility has been delegated to the Administrator of the DEA by Section 0.100 of Title 28 of Code of Federal Regulations. The Administrator, in turn, has redelegated this function to the Deputy Administrator of the DEA pursuant to § 0.104 of Title 28 of the Code of Federal Regulations.

The DEA established initial 1999 aggregate production quotas for controlled substances in Schedules I and II, including secobarbital, in a **Federal Register** notice published on December 23, 1998 (63 FR 71160). A consideration of the information available at that time resulted in the establishment of an aggregate production quota of 25 grams for secobarbital. Since publication of the initial 1999 aggregate production quotas, the DEA has received information which necessitates an immediate increase in the 1999 aggregate production quota for secobarbital. The increase in the quota for secobarbital is necessary in order for the sole U.S. manufacturer to meet unforeseen domestic requirements. For this reason, an interim notice is being published.

Therefore, under the authority vested in the Attorney General by Section 306 of the CSA (21 U.S.C. 826), delegated to the Administrator of the DEA by § 0.100 of Title 28 of the Code of Federal Regulations, and redelegated to the Deputy Administrator, pursuant to § 0.104 of Title 28 of the Code of Federal Regulations, the Deputy Administrator hereby establishes the following revised 1999 aggregate production quota for the listed controlled substance, expressed in grams of anhydrous acid:

Basic class	Revised 1999 quota
Secobarbital	1,011,000

All interested persons are invited to submit their comments in writing regarding this interim notice.

The Office of Management and Budget has determined that notices of aggregate production quotas are not subject to centralized review under Executive Order 12866. This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this matter does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The Deputy Administrator hereby certifies that this action will have no significant impact upon small entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The establishment of aggregate production quotas for Schedules I and II controlled substances is mandated by law and by international treaty obligations. Aggregate production quotas apply to approximately 200 DEA registered bulk and dosage from manufacturers of Schedules I and II controlled substances. The quotas are necessary to provide for the estimated medical, scientific, research and industrial needs of the United States, for export requirements and the establishment and maintenance of reserve stocks. While aggregate production quotas are of primary importance to large manufacturers, their impact upon small entities is neither negative nor beneficial. Furthermore, this action involves only one basic class of controlled substance. Accordingly, the Deputy Administrator has determined that this action does not require a regulatory flexibility analysis.

Dated: May 13, 1999.

Donnie R. Marshall,
Deputy Administrator.

[FR Doc. 99-13829 Filed 5-28-99; 8:45 am]

BILLING CODE 5510-25-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection under Review: Data Relating to Beneficiary of Private Bill.

The Department of Justice, Immigration and Naturalization Service

(INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on March 1, 1999 at 64 FR 10022, allowing for a 60-day public comment period. No comments were received by the INS on this proposed information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until July 1, 1999. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Stuart Shapiro, Department of Justice Desk Officer, Room 10235, Washington, DC 20530; 202-395-7316.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

- (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- (2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of currently approved collection.

(2) *Title of the Form/Collection:* Data Relating to Beneficiary of Private Bill.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form G-79A. Investigations Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or

Households. This information is needed to report on Private Bills to Congress when requested.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 100 responses at 1 Hour per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 100 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202-514-3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: May 25, 1999.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Policy Directives and Instructions Branch.

[FR Doc. 99-13760 Filed 5-28-99; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under review: Certificates for health care benefits.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on March 1, 1999 at 63 FR 10022, allowing for a 60-day public comment period. No comments

were received by the INS on this proposed information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until July 1, 1999. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Stuart Shapiro, Department of Justice Desk Officer, Room 10235, Washington, DC 20530; 202-395-7316.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

- (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- (2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of currently approved collection.

(2) *Title of the Form/Collection:* Certificates for Health Care Benefits.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* No Agency Form Number. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Not-for-profit institutions. The data collected in this process is used by the credentialing organization to determine if the alien is eligible to receive a certificate. The certificate is then submitted to the INS by an alien in order to obtain an immigration benefit.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to*

respond: 14,000 responses at approximately 1 hours and 50 minutes (1.83) hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 25,620 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202-514-3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: May 25, 1999.

Richard A. Sloan,
Department Clearance Officer, United States
Department of Justice Immigration and
Naturalization Service.

[FR Doc. 99-13761 Filed 5-28-99; 8:45 am]

BILLING CODE 4410-10-01

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection under Review: Telephone Verification System (TVS) Phase II Pilot Non-Citizen Employees Employment Status.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the *Federal Register* on March 1, 1999 at 64 FR 10023, allowing for a 60-day public comment period. No comments were received by the INS on this proposed information collection.

The purpose of this notice is to allow an additional 30 days for public

comments. Comments are encouraged and will be accepted until July 1, 1999. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Stuart Shapiro, Department of Justice Desk Officer, Room 10235, Washington, DC 20530; 202-395-7316.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

- (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- (2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of currently approved collection.

(2) *Title of the Form/Collection:* Telephone Verification System (TVS) Phase II Pilot Non-Citizen Employees Employment Status Report.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* No Agency Form (File No. OMB-7). SAVE Branch, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals of Households. This information will be used by the INS to determine the number of non-citizen employees who are authorized for employment in the United States as a result of the Telephone Verification System Phase II Pilot Project. The users of the Telephone

Verification System are various employers throughout the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 276,000 queries at approximately 7 minutes (.116) hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 32.016 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202-514-3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: May 25, 1999.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 99-13762 Filed 5-28-99; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Notice of Information Collection Under Review: Petition by Entrepreneur to Remove Conditions

AGENCY INFORMATION COLLECTION

ACTIVITIES: Comment Request.

ACTION: Notice of Information Collection Under Review; Petition by Entrepreneur to Remove Conditions.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments

are encouraged and will be accepted for "sixty days" until August 2, 1999.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies of the burden of the proposed collection of information, including the validity of the methodology and assumption used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Reinstatement without change of previously approved collection.

(2) *Title of the Form/Collection:* Petition by Entrepreneur to Remove Conditions.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I-829. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. This form is used by a conditional resident alien entrepreneur who obtained such status through a qualifying investment, to apply to remove the conditions on his or her conditional resident status.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 200 responses at 65 minutes (1.08) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 216 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202-514-3291, Director, Policy Directives and

Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: May 25, 1999.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice Immigration and Naturalization Service.

[FR Doc. 99-13763 Filed 5-28-99; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the employment and Training Administration is soliciting comments concerning the proposed extension collection of the data contained on the Welfare to Work Formula (ETA 9068) and Competitive (ETA 9068-1) Cumulative Quarterly Status Reports.

A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressees section of this notice.

DATES: Written comments must be submitted to the office listed in the

addressees section below on or before August 2, 1999.

ADDRESSES: Edward Donahue, Acting Chief, Division of Financial Grants Management Policy and Review, Office of Grants and Contract Management, United States Department of Labor, Employment and Training Administration, 200 Constitution Ave. NW, Rm. N-4720, Washington, D.C. 20210, (202-219-5731 x126—not a toll free number) and, Internet address: EDonahue@DOLETA.GOV and/or FAX: (202-501-4811).

SUPPLEMENTARY INFORMATION:

I. Background

The Welfare to Work program is a new program designed to assist States in providing transitional employment assistance to move hard-to-employ recipients of Temporary Assistance for Needy Families, with significant job placement and job retention barriers, into unsubsidized jobs. The quarterly financial status reports are due to the Employment and Training Administration in order to evaluate the program, for program planning and management, to measure regulatory compliance, and for audit purposes. The required data will be transmitted from the grantees to ETA via the Internet, quarterly throughout the life of the grant. The data will be cumulative from

the inception of the grant and a separate format will be required for each fiscal year of funds received by the grantee. Passwords and Personal Identification Numbers have been assigned to all grantees to enable access to the reporting formats and provide a mechanism for data certification.

II. Review Focus

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
 - Enhance the quality, utility, and clarity of the information to be collected; and
 - Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions

The existing collection of information must be continued so that DOL can effectively manage and evaluate the WtW program. It is also essential that DOL has available the required data to measure program performance against the OMB approved performance bonus criteria. The Balanced Budget Act of 1997 stipulates that bonuses are to be awarded in FY 2000 based on the performance of each State that is a WtW State in 1998 and 1999.

Type of Review: Extension.

Agency: Employment and Training Administration.

Title: Welfare to Work Formula (ETA 9068) and Competitive (ETA 9068-1) Cumulative Quarterly Status Reports.

OMB Number: 1205-0385.

Agency Numbers: ETA 9068 and ETA 9068-1.

Frequency: Quarterly.

Affected Public: (1) WtW Formula Grants: States, local governments, and Private Industry Councils; and (2) WtW Competitive Grants: Eligible applicants from business and/or other for profit and non-profit institutions.

Reporting Burden: See the following Reporting Burden Tables for WtW Formula and Bonus Grants (ETA 9068) and WtW Competitive Grants (ETA 9068-1).

DOL-ETA REPORTING BURDEN FOR WtW FORMULA AND TRIBAL GRANTS (INCLUDING BONUS) PARTICIPANT DATA COLLECTION

Requirements	FY 1998	FY 1999	FY 2000 (bonus)	FY 2001
Number of Reports Per Entity Per Quarter	1	1	1	1
Total Number of Reports Per Entity Per Year	2	4	4	4
Number of Hours Required for Reporting Hours Per Quarter Per Report ...	1	1	1	1
Total Number of Hours Required for Reporting Hours Per Entity Per Year	2	4	4	4
Number of Entities Reporting	55	55	55	55
Total Number of Hours Required for Reporting Burden Per Year	110	220	220	220
Total Burden Cost @ \$23.45 per hour	\$2,580	\$5,159	\$5,159	\$5,159

Note: This reporting Burden Estimate is exclusive of the Reporting Burden estimate

contained in 45 CFR Part 276. This Reporting Burden includes estimated time and dollars

to report eligibility, targeting, and follow-up disaggregate participant data.

Requirements	FY 1998	FY 1999	FY 2000
Number of Reports Per Entity Per Quarter	1	1	1
Total Number of Reports Per Entity Per Year	2	4	4
Number of Hours Required for Reporting Per Quarter Per Report	1.5	1.5	1.5
Total Number of Hours Required for Reporting Hours Per Entity Per Year	3	6	6
Estimated Number of Entities Reporting	76	76	50
Total Number of Hours Required for Reporting Burden Per Year	228	456	300
Total Burden Cost @ \$23.45 per hour	\$5,347	\$10,693	\$7,035

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: May 25, 1999.

Dennis Lieberman,

Director, Office of Welfare to Work.

[FR Doc. 99-13816 Filed 5-28-99; 8:45 am]

BILLING CODE 4910-35-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 99-068]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Prospective Patent License.

SUMMARY: NASA hereby gives notice that New Century Pharmaceuticals, Inc., of Huntsville, Alabama, has applied for an exclusive license to practice the invention disclosed in NASA Case No. MFS-31320-1 entitled "Oxygen-Transportation Albumin-Based Blood Replacement Composition and Blood Volume Expander," for which a U.S. Patent Application was filed and assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the proposed grant of a license should be sent to Mr. James J. McGroary, Patent Counsel, Mail Code CC01, Marshall Space Flight Center, Huntsville, AL 35812.

DATES: Responses to this notice must be received by August 2, 1999.

FOR FURTHER INFORMATION CONTACT: Sammy Nabors, Mail Code CO30, Marshall Space Flight Center, Huntsville, AL 35803; telephone 256-544-5226.

Dated: May 24, 1999.

Edward A. Frankie,
General Counsel.

[FR Doc. 99-13692 Filed 5-28-99; 8:45 am]

BILLING CODE 7510-01-P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 99-070]

NASA Advisory Council, Aero-Space Technology Advisory Committee, Goals Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a NASA Advisory Council, Aero-Space Technology Advisory Committee, Goals Subcommittee meeting.

DATES: Tuesday, June 22, 1999, 8:00 a.m. to 5:00 p.m.; Wednesday, June 23, 1999, 8:00 a.m. to 5:00 p.m.; and Thursday, June 24, 1999, 8:00 a.m. to 12:00 noon.

ADDRESSES: National Aeronautics and Space Administration, 300 E Street, SW, Washington, DC 20546-0001. The meeting will be held in the Program Review Center, Room 9H-40.

FOR FURTHER INFORMATION CONTACT: Ms. Enzie M. Ebron, National Aeronautics and Space Administration, 300 E Street, SW, Washington, DC 20546-0001, 202-358-4642.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. Agenda topics for the meeting are as follows:

Finalize the process the committee will use to analyze the progress the NASA Aero-Space Technology Enterprise is making towards the 10 Enabling Technology Goals.

Using the above procedure, review the following Enabling Technology Goals:

- # 4—While maintaining safety, triple the throughput, in all weather conditions, within 10 years.
- # 7—Enable doorstep-to-destination travel at 4 times the speed of highways to 25% of the Nation's suburban, rural, and remote communities in 10 years and more than 90% in 25 years.

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitors register.

Dated: May 24, 1999.

Matthew M. Crouch,

*Advisory Committee Management Officer,
National Aeronautics and Space
Administration.*

[FR Doc. 99-13693 Filed 5-28-99; 8:45 am]

BILLING CODE 7510-01-P

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Experimental and Integrative Activities; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Experimental and Integrative Activities (1373).

Date and Time: June 15, 1999; 8:30 a.m. to 5:00 p.m.

Place: Room 970, National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

Type of meeting: Closed.

Contact Persons(s): Dr. Harry G. Hedges, Program Director, Division of Experimental and Integrative Activities, National Science Foundation, Room 1160, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306-1980.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the National Science Foundation for financial support.

Agenda: To review and evaluate CISE Educational Innovation proposals as part of the selection process for awards.

Reasons for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: May 24, 1999.

Karen J. York,

Committee Management Officer.

[FR Doc. 99-13694 Filed 5-28-99; 8:45 am]

BILLING CODE 7555-01-M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Human Resource Development; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

Name and Committee Code: Special Emphasis Panel in Human Resource Development (#1199).

Date and Time: June 10-11, 1998; 8:30 a.m. to 5 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 390, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Victor Santiago, Program Director, Human Resource Development Division, Room 815, National Science Foundation, 4201 Wilson Boulevard,

Arlington, VA 22230 Telephone: (703) 306-1640.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate the Historically Black Colleges and Universities proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: May 24, 1999.

Karen J. York,

Committee Management Officer

[FR Doc. 99-13696 Filed 5-28-99; 8:45 am]

BILLING CODE 7555-01-M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Information and Intelligent Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), The National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Information and Intelligent Systems (1200)

Date and Time: June 10-11, 1999; 08:00-5:00 PM.

Place: Room 110, National Science Foundation, 4201 Wilson Blvd, Arlington VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Gary Strong, Deputy Division Director, Division of Information and Intelligent Systems, Room 1115, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 306-1928.

Purpose of Meeting: To provide advice and recommendations concerning proposals Submitted to NSF for financial support.

Agenda: To review and evaluate Computation and Social Systems proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a Proprietary or confidential nature, including technical information, financial data, such as Salaries, and personal information concerning individuals associated with the proposals. These Matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: May 24, 1999.

Karen J. York,

Committee Management Officer

[FR Doc. 99-13697 Filed 5-28-99; 8:45 am]

BILLING CODE 7555-01-M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Research, Evaluation & Communication; Notice of Meeting.

In accordance with the Federal Advisory Committee Act (Pub.L. 92-463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Research, Evaluation & Communication (#1210)

Date and Time: June 22, 1999 (8:00 a.m.-5:00 p.m.); June 23, 1999 (8:00 a.m.-5:00 p.m.)

Place: National Science Foundation, 4201 Wilson Boulevard, Room 880, Arlington, VA 22230

Type of Meeting: Closed

Contact Person: Dr. Bernice Anderson, Program Director; Research, Evaluation and Communication (REC), Room 855, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: 703/306-1650

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support

Agenda: To review and evaluate formal proposals submitted to the Systemic Initiatives and Rural Systemic Initiatives Evaluative Studies Program as a part of the selection process for awards

Reason for Closing: The proposals being reviewed include information of a propriety or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: May 24, 1999.

Karen J. York,

Committee Management Officer

[FR Doc. 99-13698 Filed 5-28-99; 8:45 am]

BILLING CODE 7555-01-M

NATIONAL SCIENCE FOUNDATION

National Assessment Synthesis Team; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

Name: U.S. National Assessment Synthesis Team (#5219).

Date: June 7-8, 1999, 8:30 a.m. to 5:00 p.m. both days.

Place: National Science Foundation, 4201 Wilson Blvd., Room 1235, Arlington, VA.

Type of Meeting: Open.

Contact Person: Melissa J. Taylor, Office of the U.S. Global Change Research Program (USGCRP), 400 Virginia Avenue, SW, Suite 750, Washington, DC 20024. Tel: 202-314-2230; Fax: 202-488-8681; Email:

mtaylor@usgcrp.gov. Interested persons should contact Ms. Taylor as soon as possible to assure space provisions are made for all participants and observers.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice and recommendations to the interagency Subcommittee on Global Change Research on the design and conduct of the national effort to assess the consequences of climate variability and climate change for the United States.

Agenda: Day 1 (June 7) will review overall progress since the April meeting, and will focus on the revisions of the draft section of the Synthesis Report.

Day 2 (June 8) will continue the discussion of the draft sections of the Synthesis Report, and will then review the timetable for next step and will address any outstanding issues.

Dated: May 24, 1999.

Karen J. York,

Committee Management Officer

[FR Doc. 99-13695 Filed 5-28-99; 8:45 am]

BILLING CODE 7555-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Meeting Notice; Agenda

TIME AND DATE: 9:30 a.m., Tuesday, June 8, 1999.

PLACE: NTSB Board Room, 5th Floor, 490 L'Enfant Plaza, S.W., Washington, D.C. 20594.

STATUS: The first item is open to the public. The Second item is closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

7162 Highway Special Investigation Report: Pupil Transportation on Nonconforming Buses.

6923 Opinion and Order: Administrator v. Shorter, Docket SE-14697; disposition of respondent's appeal.

NEWS MEDIA CONTACT: Telephone: (202) 314-6100.

FOR MORE INFORMATION CONTACT: Rhonda Underwood, (202) 314-6065.

Dated: May 27, 1999.

Rhonda Underwood,

Federal Register Liaison Officer.

[FR Doc. 99-13982 Filed 5-27-99; 3:44 pm]

BILLING CODE 7533-01-P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* 10 CFR Part 32—Specific Domestic Licenses to Manufacture or Transfer Certain Items Containing Byproduct Material.

3. *The form number if applicable:* N/A.

4. *How often the collection is required:* There is a one-time submittal of information to receive a license. Renewal applications are submitted every 10 years. In addition, recordkeeping must be performed on an on-going basis, and reports of transfer of byproduct material must be reported every 10 years.

5. *Who will be required or asked to report:* All specific licensees who manufacture or initially transfer items containing byproduct material for sale or distribution to general licensees or persons exempt from licensing.

6. *An estimate of the number of responses:* There are 5,727 NRC licensee responses and 8,372 Agreement State licensee responses annually for a total of 14,099 responses.

7. *The estimated number of annual respondents:* 265 NRC licensees and 333 Agreement State licensees for a total of 598.

8. *An estimate of the total number of hours needed annually to complete the requirement or request:* 53,333 hours or 201.26 hours per NRC licensee and 95,306.9 hours or 286.21 hours per Agreement State licensee for a total of 148,640 hours.

9. *An indication of whether Section 3507(d), Pub. L. 104-13 applies:* No.

10. *Abstract:* 10 CFR Part 32 establishes requirements for specific licenses for the introduction of byproduct material into products or materials and transfer of the products or materials to general licensees or persons exempt from licensing. It also prescribes requirements governing holders of the specific licenses. Some of the requirements are information which must be submitted in an application for

a specific license, records which must be kept, reports which must be submitted, and information which must be forwarded to general licensees and persons exempt from licensing. In addition, 10 CFR Part 32 prescribes requirements for the issuance of certificates of registration (concerning radiation safety information about a product) to manufacturers or initial transferors of sealed sources and devices. Submission or retention of the information is mandatory for persons subject to the 10 CFR Part 32 requirements. The information is used by NRC to make licensing and other regulatory determinations concerning the use of radioactive byproduct material in products and devices.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC. OMB clearance requests are available at the NRC worldwide web site (<http://www.nrc.gov/NRC/PUBLIC/OMB/index.html>). The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by July 1, 1999. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Erik Godwin, Office of Information and Regulatory Affairs (3150-0001), NEOB-10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395-3087.

The NRC Clearance Officer is Brenda Jo. Shelton, 301-415-7233.

Dated at Rockville, Maryland, this 18th day of May 1999.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99-13776 Filed 5-28-99; 8:45 am]

BILLING CODE 7590-01-2

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-423]

Northeast Nuclear Energy Company, et al. Millstone Nuclear Power Station, Unit No. 3; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has

granted the request of Northeast Nuclear Energy Company (the licensee) to withdraw its July 26, 1995, application, as supplemented by letter dated July 17, 1996, for proposed amendment to Facility Operating License No. NPF-49 for the Millstone Nuclear Power Station, Unit No. 3, located in New London County, Connecticut.

The proposed amendment would have revised the facility technical specifications pertaining to the protective functions instrumentation surveillance interval, extending the interval from the current 18-month to a 24-month fuel cycle, and would have revised the Reactor Trip System (RTS) and Engineered Safety Features Actuation System (ESFAS) instrumentation trip setpoints tables from the existing five columns to a single column format that lists only nominal trip setpoints. Revision to the RTS and ESFAS instrumentation trip setpoints tables were subsequently resubmitted under a separate amendment request dated October 15, 1997, as supplemented January 23 and April 8, 1998, and approved in amendment number 159, issued on May 26, 1998.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the *Federal Register* on November 27, 1995 (60 FR 58402). However, by letter dated April 22, 1999, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated July 26, 1995, as supplemented by letter dated July 17, 1996, and the licensee's letter dated April 22, 1999, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the Millstone Unit 3 local public document rooms located at the Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Public Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut.

Dated at Rockville, Maryland, this 24th day of May 1999.

For the Nuclear Regulatory Commission.

John A. Nakoski,

Sr. Project Manager, Section 2, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99-13775 Filed 5-28-99; 8:45 am]

BILLING CODE 7590-01-2

NUCLEAR REGULATORY COMMISSION

Meeting of a Subgroup of the American Society for Quality To Be Held at NRC To Resolve Intra-Group Comments on a Draft Good Practices Paper

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of a meeting.

SUMMARY: The ASQ EED has been preparing a good practices paper covering performance indicators. A draft has been prepared, and the group will meet to resolve comments they have received on it to date in anticipation of preparing a revision. The meeting will consist of a subgroup of the American Society for Quality, Energy and Environmental Division, Nuclear Power Production Committee (ASQ EED) to be held in the Nuclear Regulatory Commission (NRC) offices to resolve intra-group and other comments on a draft good practices paper on performance indicators.

DATES: The meeting will be held on June 7, 1999 from 1:00 pm—5:00 pm, and on June 8, 1999 from 10:00 am—5:00 pm.

ADDRESSES: Nuclear Regulatory Commission, Conference Room O-3 B4, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Owen P. Gormley, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415-6793.

SUPPLEMENTARY INFORMATION: The ASQ EED is working to prepare a good practices paper covering performance indicators. A task group workshop was held in March of 1999 to prepare the first draft of the paper. This taskgroup workshop will resolve intra-group and other comments, and will prepare the second draft. The task group consists of one NRC member and several utility members.

The format of the meeting will be a workshop, discussing and resolving the comments on the current draft, and preparing the next draft. Seating for the public will be on a first come, first-served basis. Attendance should be coordinated with the chairman of the ASQ EED Nuclear Power Production Committee, Benjamin Marguglio at (914) 734-5637.

Dated at Rockville, Maryland, this 24th day of May 1999.

For the Nuclear Regulatory Commission
John W. Craig,
Director Division of Engineering Technology
Office of Nuclear Regulatory Research
[FR Doc. 99-13777 Filed 5-28-99; 8:45 am]
BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting of the Subcommittee on Plant License Renewal; Notice of Meeting

The ACRS Subcommittee on Plant License Renewal will hold a meeting on June 30 and July 1, 1999, in Room T-2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, June 30, 1999—8:30 a.m. until the conclusion of business.

Thursday, July 1, 1999—8:30 a.m. until the conclusion of business.

The Subcommittee will review safety evaluation reports related to Babcock and Wilcox generic license renewal program topical reports and the Oconee license renewal application, and issues associated with the license renewal process. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, Duke Energy Corporation and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, and the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor, can be obtained by contacting the cognizant ACRS staff engineer, Mr. Noel F. Dudley (telephone 301/415-6888) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: May 25, 1999.

Richard P. Savio,

Associate Director for Technical Support,
ACRS/ACNW.

[FR Doc. 99-13774 Filed 5-28-99; 8:45 am]

BILLING CODE 7590-01-P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Notice; Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of June 1, 1999.

A closed meeting will be held on Thursday, June 3, 1999, at 10:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Johnson, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Thursday, June 3, 1999, at 10:00 a.m., will be:

Institution of injunctive actions.
Settlement of injunctive actions.
Institution of administrative proceedings of an enforcement nature.

Settlement of administrative proceedings of an enforcement nature.

At times, changes in Commission priorities require alterations in the

scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942-7070.

Dated: May 27, 1999.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 99-13985 Filed 5-27-99; 3:55 pm]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41439; File No. 10-127]

International Securities Exchange LLC; Notice of Filing of Application for Registration as a National Securities Exchange Under Section 6 of the Securities Exchange Act of 1934

May 24, 1999.

The International Securities Exchange LLC ("ISE") has submitted a Form 1 application under the Securities Exchange Act of 1934 ("Exchange Act"), seeking registration as a national securities exchange under Section 6 of the Exchange Act.¹ A copy of the ISE's Form 1, including all exhibits, is available in the Commission's Public Reference Room, File No. 10-127, and on the Commission's website at <http://www.sec.gov/rules/othrindx.htm>. The Commission is publishing notice of ISE's filing to afford interested persons an opportunity to submit written comments. The Commission will take these comments into consideration in making its determination about whether to grant ISE's request to be registered as an exchange. The Commission shall grant such registration if it finds that the requirements of the Exchange Act and the rules and regulations thereunder are satisfied.²

ISE's Form 1 provides detailed information about ISE and how it proposes to satisfy the requirement of the Exchange Act. In general, ISE would become an exchange that operates an automated trading system for standardized equity options. It would be an agency-auction market similar to the exchange markets currently in operation, although the auction would occur electronically, and not on a floor. ISE plans to become a member-owner of, and clear its transactions through, The Options Clearing Corporation ("OCC").

As a member-owner of OCC, the options contracts traded on the ISE would be fully fungible with the options of the same companies traded on the other options exchanges. ISE also plans to join the Options Price Reporting Authority Plan, which governs the dissemination of options quotes and last-sale transaction prices.

Interested persons should submit three copies of their written data, views and opinions to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549-0609. Comments may also be submitted electronically at the following e-mail address: rule-comments@sec.gov. Comments must be received on or before July 16, 1999. All comment letters should refer to File No. 10-127; this file number should be included on the subject line if comments are submitted using e-mail. All submissions will be available for public inspection and copying at the Commission's Public Reference Room, Room 1024, 450 Fifth Street, N.W., Washington, D.C. 20549. Electronically submitted comment letters will be posted on the Commission's Internet website (<http://www.sec.gov>).

For questions regarding this release, contact: Michael Walinskas, Deputy Associate Director, at (202) 942-0187, Sheila Slevin, Assistant Director, at (202) 942-0796, Christine Richardson, Attorney, at (202) 942-0748, or Joseph Morra, Attorney, at (202) 942-0781; Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549-1001.

By the Commission.
Margaret H. McFarland,
Deputy Secretary.
[FR Doc. 99-13710 Filed 5-28-99; 8:45 am]
BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41436; File No. SR-Amex-99-15]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange LLC Relating to the Listing and Trading of Notes and Warrants on the 10 Uncommon Values Index of Lehman Brothers Inc.

May 21, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on April 19, 1999, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Exchange filed Amendment No. 1³ to the proposed rule change on May 17, 1999. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to approve for trading stock index warrants, pursuant to Section 106, and indexed term notes, pursuant to Section 107, of the *Amex Company Guide* based upon the 10 Uncommon Values® Index of Lehman Brothers Inc.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item VI below. The Amex has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to trade stock index warrants, pursuant to Section 106, and indexed term notes, pursuant to Section 107, of the *Amex Company Guide* based upon Lehman Brothers' 10 Uncommon Values® Index, an index consisting of ten actively traded equity securities ("Index"). The issuer of the Warrants (as hereinafter defined) and Notes (as hereinafter defined) will be

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Letter from Scott Van Hatten, Amex to Richard Strasser, Division of Market Regulation, Commission, dated May 14, 1999 ("Amendment No. 1"). Amendment No. 1 clarifies that the Notes (as hereinafter defined) will be principal protected if held to maturity or if called by the issuer. Amendment No. 1 also provides three sample calculations of payment amounts that investors holding Notes may receive.

¹ See Letter to Michael Walinskas, Deputy Associate Director, Division of Market Regulation, Commission, from David Krell, President and CEO, ISE, dated February 1, 1999 ("ISE Form 1").

² Section 19(a)(1) of the Exchange Act, 15 U.S.C. 78s(a)(1).

Lehman Brothers Holdings Inc. ("LB Holdings").

The securities to be included in the Index will be those selected annually by the Investment Policy Committee ("Committee") of Lehman Brothers' Equity Research group, a division of Lehman Brothers Inc., and announced on or about July 1, as its selection of ten securities that the Committee believes will outperform the stock market during the succeeding twelve months. To determine the ten selections each year, various Lehman brothers' Equity Research analysts appear before the firm's Investment Policy Committee to present their proposed equity selections to be included in the Index for the next twelve months. The Committee analyzes and screens each proposal after which the list of stocks is reviewed to determine which ones offer the potential for market outperformance. The Committee then selects what it believes to be the best ideas for the next year's 10 Uncommon Values. Immediately thereafter, on or about July 1 of each year, the ten securities to be included in that year's Index are announced. Each subsequent year's 10 Uncommon Value stocks ("New Components") will replace the preceding year's 10 Uncommon Value stock ("Old Components") in their entirety in the Index. The New Components will be added to the Index on or about July 1 ("Announcement Date") each year, and the Old Components will be removed from the Index on the last business day immediately preceding the Announcement Date ("Closing Date").

Consistent with other structured products, the Exchange will distribute a circular to its membership, prior to the commencement of trading, providing guidance with regard to member firm compliance responsibilities, including appropriate suitability criteria and/or guidelines. Lastly, as with other structured products, the Exchange will closely monitor activity in the Notes and Warrants to identify and deter any potential improper trading activity in the Notes and Warrants.

Description of Index Term Notes. Under Section 107 of the *Amex Company Guide*, the Exchange may approve for listing and trading securities that cannot be readily categorized under the listing criteria for common and preferred stocks, bonds, debentures, or warrants.⁴ The Amex now proposes to list for trading under Section 107 of the *Amex Company Guide*, indexed term

notes ("Notes") whose value in whole or in part will be based on the Index.

The Notes will be debt securities and will conform to the listing guidelines under Section 107A of the *Amex Company Guide*. Although a specific maturity date will not be established until the time of the offering, the Notes will provide for maturity of not less than one nor more than ten years from the date of issue.

The price of each Note may be par or less than par, in which case the Notes accrue original issue discount. The Notes may or may not provide for periodic coupon payments (at a fixed rate).

Beginning on a specified date ("Conversion Date"), holders have the right to tender the Notes in exchange for the cash equivalent ("Exchange Amount") of the current component securities in the Index in proportions equal to their weighting in the Index, according to the following formula:

$\text{Par/Strike} \times \text{Index}_t$

Where:

Index_t : Index Closing Price of the Selected Index on the earlier of Conversion Date or Maturity Date
 Index_0 : Initial Spot
 Strike : —to be disclosed % of Index, (e.g. 125%)

Investors in the Notes may receive varying payment amounts depending upon whether the notes are held to maturity, called by the issuer prior to maturity or redeemed by the investor prior to maturity. Below are examples of calculations of payments amounts that investors holding the Notes may receive.⁵

To determine payment amounts given each of the three separate events, a Par value (Issue Price) of \$1000, Strike of 125, and Initial Value of the Index 100 are assumed. The maturity of the notes are assumed to be 5 years and the issuer may not call the notes prior to three years after their issuance (i.e., the notes will have a non-call life of 3 years).

1. The investor holds the Notes until maturity. At maturity, the investor will receive the greater of:

Par (\$1000), and
 $(\text{Par/Strike} \times \text{Final Index Value})$

2. The investor converts the Notes prior to maturity. Investors may convert their Notes at any time after the one-month anniversary of the issue date in exchange for cash. The amount the investor would receive in the event of early conversion is determined by the following formula:

$(\text{Par/Strike} \times \text{Current Index Value})$

3. The issuer has the right to call the notes at Par at any point beginning three years after the trade date by publishing such call with 30-days notice to investors. Once the issuer calls the Notes, its holders may convert it by giving the issuer at least 20-days notice. If the investors convert, they receive: $(\text{Par/Strike} \times \text{Current Index Value})$

Otherwise, should the holder fail to convert, the Notes will be called by the issuer and the investor will receive the Par Value (\$1,000).

Example 1: Assume an Index value equal to 150 (i.e., greater than the initial Index value of 100). Payment to investors under the above three events would be as follows:

1. Greater of $[\$1000 \text{ and } (\$1,000 / 125 \times 150)] = \$1,200$
2. $(\$1,000 / 125 \times 150) = \$1,200$
3. $(\$1,000 / 125 \times 150) = \$1,200$

Example 2: Assuming an Index value of 90 (i.e., less than the initial index value of 100). Payment to investors under the above three events would be as follows:

1. Greater of $[\$1,000 \text{ and } (\$1,000 / 125 \times 90)] = \$1,000$
2. $(\$1,000 / 125 \times 90) = \720
3. Note may or may not be called by the issuer in this case. If the Note is called, payment would equal Par (\$1,000).

Beginning on a specified date the issuer may or may not have the right to call all of the Notes at a call price equal to the issue price of the Notes plus accrued original issue discount, if any, to the call date. If the market value of the basket of component securities on the last trading before the issuer sends its call notice is equal to or greater than the call price, the issuer will deliver to holders the Exchange Amount instead. If the issuer notifies holders it will be calling the Notes for the Exchange Amount, a holder may still exercise its exchange right on any day prior to the call date.

If the Notes have not been exchanged or called prior to maturity, they will be paid in cash at maturity in an amount equal to par plus accrued interest, if any.

Exchange Rules Applicable to Index Notes. Because the Notes are linked to a basket of equity securities, the Amex's existing equity floor trading rules and standard equity trading hours (9:30 a.m. to 4:00 p.m. Eastern Time) will apply to the trading of the Notes. Pursuant to Exchange Rule 411, the Exchange will impose a duty of due diligence on its members and member firms to learn the essential facts relating to every customer prior to trading the Notes. Further, the

⁴ See Securities Exchange Act Release No. 27753 (March 1, 1990), 55 FR 8626 (March 8, 1990).

⁵ See Amendment No. 1, *supra* n.3.

Notes will be subject to the equity margin rules of the Exchange.⁶

Description of Index Warrants. Under Section 106 of the *Amex Company Guide*, the Exchange may approve for listing and trading index warrants. The Amex now proposes to list for trading, under Section 106 of the *Amex Company Guide*, index warrants ("Warrants") whose value in whole or in part will be based upon the Index. The Warrants will conform to the listing guidelines under Section 106 of the *Amex Company Guide*.

Although a specific maturity date will not be established until the time of the offering, the Warrants will have a term of between one and five years from the date of issuance. The Warrants will be cash-settled in U.S. Dollars.

Expiration and Settlement of Index Warrants. The Warrants will be direct obligations of their issuer, LB Holdings, subject to cash-settlement during their term, and either exercisable throughout their life (*i.e.*, American style) or exercisable only on their expiration date (*i.e.*, European style). Upon exercise, or at the warrant expiration date (if not exercised prior to such date), the holder of a warrant structured as a "put" would receive payment in U.S. dollars to the extent that the Index has declined below a pre-stated index level (*i.e.*, the put strike). Conversely, holders of a warrant structured as a "call" would, upon exercise or at expiration, receive payment in U.S. dollars to the extent that the Index has increased above the pre-stated index level (*i.e.*, the call strike). If "out-of-the-money" at the time of expiration, then the Warrants would expire worthless. In addition, the Amex, prior to the commencement of trading, will distribute a circular to its membership calling attention to specific risks associated with the Warrants on the Index.

Exchange Rules Applicable to Index Warrants. The listing and trading of Warrants on the Index will comply in all respects with Exchange Rules 1100 through 1110 for the trading of stock index and currency warrants. These rules cover issues such as exercise and position and reporting requirements. Surveillance procedures currently used to monitor trading in each of the Exchange's other index warrants will also be used to monitor trading in the Warrants. The Index will be deemed to be a Stock Index Industry Group under Amex Exchange 900C(b)(1). The Exchange expects that the review required by Exchange Rule 1107(b)(ii) will result in a position limit of 9,000,000 Warrants.

Eligibility Standards for Index Components. Components of the Index approved pursuant to this filing will meet the following criteria: (1) a minimum market value of at least \$75 million, except that the lowest weighted component security in the Index may have a market value of \$50 million; (2) trading volume in each of the last six months of not less than 1,000,000 shares, except that the lowest weighted component security in the Index may have a trading volume of 500,000 shares or more in each of the last six months; (3) 90% of the Index's numerical Index value and at least 80% of the total number of component securities will meet the then current criteria for standardized option trading set forth in Exchange Rule 915; (4) all component stocks will either be listed on the Amex, the New York Stock Exchange, or traded through the facilities of the Nasdaq Stock Market and reported National Market System securities; and (5) if any foreign securities or American Depositary Receipts represented in the Index cause a particular foreign country's weight in the Index to initially exceed 20% of the Index's numerical Index value, the Exchange will have in place a surveillance sharing agreement with the appropriate regulatory organization in that country.

Index Calculation. The Index will be calculated using an "equal-dollar weighting" methodology designed to ensure that each of the component securities is represented in an approximately "equal" dollar amount in the Index. To create the Index, a portfolio of equity securities will be established by the issuer representing an investment of \$10,000 in each component security (rounded to the nearest whole share). The value of the Index will equal the current market value of the sum of the assigned number of shares of each of the component securities divided by the current index divisor. The Index divisor will initially be set to provide a benchmark value of 100.00 at the close of trading on the day preceding the establishment of the Index.

The Exchange will calculate the Index and, similar to other stock index values published by the Exchange, the value of the Index will be calculated continuously and disseminated every 15 seconds over the Consolidated Tape Association's Network B.

The number of shares of each component stock in the Index will remain fixed between Announcement Dates except in the event of certain types of corporate actions such as the payment of a dividend other than an ordinary cash dividend, a stock

distribution, stock split, reverse stock split, rights offering, distribution, reorganization, recapitalization, or similar event with respect to the component stocks. The number of shares of each component stock may also be adjusted, if necessary in the event of a merger, consolidation, dissolution or liquidation of an issuer or in certain other events such as the distribution of property by an issuer to shareholders, the expropriation or nationalization of a foreign issuer or the imposition of certain foreign taxes on shareholders of a foreign issuer. Shares of a component stock may be replaced (or supplemented) with other securities under certain circumstances, such as the conversion of a component stock into another class of security, the termination of a depositary receipt program or the spin-off of a subsidiary. If the stock remains in the Index, the number of shares of that security in the portfolio may be adjusted, to the nearest whole share, to maintain the component's relative weight in the Index at the level immediately prior to the corporate action. In all cases, the divisor will be adjusted, if necessary, to ensure Index continuity.

Consistent with other structured products, the Exchange will distribute a circular to its membership, prior to the commencement of trading, providing guidance with regard to member firm compliance responsibilities, including appropriate suitability criteria and/or guidelines. Lastly, as with other structured products, the Exchange will closely monitor activity in the Notes and Warrants to identify and deter any potential improper trading activity in the Notes and Warrants.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act⁷ in general, and furthers the objectives of Section 6(b)(5)⁸ in particular, in that it is designated to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

⁶ See Exchange Rule 462

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceeding to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR-Amex-99-15 and should be submitted by June 22, 1999.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁹

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 99-13810 Filed 5-28-99; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41435; File No. SR-CBOE-99-03]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated Relating to Option Exercise Procedures¹

May 21, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),² and Rule 19b-4 thereunder,³ notice is hereby given that on January 20, 1999, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or the "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. The proposal was amended on May 11, 1999.⁴ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CBOE proposes to amend Exchange Rules 4.16 and 11.1 to permit the exercise of American-style, cash-settled index options following a trading halt that occurs at or after 3:00 p.m. Such exercises will be permitted at or after 3:00 p.m. through 3:20 p.m. (CT), the normal deadline for exercising such options. The Exchange is also proposing to amend its Regulatory Circular concerning the Exchange's procedures and requirements regarding the exercise of American-style, cash-settled index options ("Exercise Regulatory Circular")⁵ to reflect these changes and to reflect changes to CBOE Rules 4.16 and 11.1 that were recently approved by the Commission. Additionally, the Exchange is proposing to permit CBOE's President or his designee to extend the applicable deadline for the delivery of Exchange-required exercise notifications, for either an American-

style, cash-settled index options or a non-cash settled equity options, if unusual circumstances are present.⁶ Attached as Exhibit A to this Notice is the text of the proposed rule. Proposed new language is *italicized*; proposed deletions are in [brackets].

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

American-style, Cash-Settled Index Options

The CBOE proposes to modify its rules governing the exercise of American-style, cash-settled index during certain trading halts. Currently, the Exchange trades only one type of American-style, cash-settled index option contract, Standard & Poor's 100 index options ("OEX index options").⁷ Index options generally are traded on the Exchange from 8:30 a.m. to 3:15 p.m. (CT).⁸ CBOE Rule 11.1 governs the exercise of options contracts, including index option contracts. CBOE Rule 11.1 provides that CBOE members shall follow the procedures of the Options Clearing Corporation ("OCC") as well as those of the exchange when exercising option contracts. Options generally may be exercised at any time during the trading day, and proposed CBOE Rule 11.1.03 requires members intending to exercise American-style, cash-settled index option contracts to deliver an "exercise advice" to a place designated by the Exchange no later than five minutes after the close of trading on that

¹ The CBOE amended the title of this filing in Amendment No. 1. See *infra* note 4.

² 15 U.S.C. 78s(b)(1).

³ 17 CFR 240.19b-4.

⁴ In Amendment No. 1, the Exchange made typographical corrections to, clarified the purpose of, and expanded the scope of the proposed rule change. ("Amendment No. 1"). See Letter from Arthur B. Reinstein, Counsel, CBOE, to Hong-anh Tran, Attorney, Division of Market Regulation ("Division"), Commission, dated May 10, 1999.

⁵ See Securities Exchange Act Release No. 40334 (August 18, 1998), 63 FR 45275 (August 25, 1998) File No. SR-CBOE-98-34.

⁶ See Amendment No. 1, *supra* note 4.

⁷ Although OEX index options are the only standardized American-style, cash-settled index options currently traded on the Exchange, the revised Rules also would apply to exercises of American-style, cash-settled FLEX Index Option contracts. All other CBOE index options are European-style, with exercise permitted only upon their expiration.

⁸ CBOE Rule 24.6, *Days and Hours of Business*.

⁹ 17 CFR 200.30-3(a)(12).

day.⁹ However, under CBOE Rule 11.1.05 (which is now proposed to be moved to CBOE Rule 11.1.03(h)), and CBOE Rule 4.16(b),¹⁰ exercises of cash-settled index options are prohibited during any time when trading in such options is delayed, halted or suspended, unless otherwise determined by the President of the Exchange or his designee.¹¹ Thus, although exercises of OEX index options may occur until 3:20 p.m. (CT) in the absence of a trading halt, no exercises of OEX index options currently are permitted when a trading halt in such options is in effect.

The current rules governing the exercise of index options were developed with recognition of the distinction between holders of long and holders of short positions in index options. The Exchange has long noted that one of the distinctive characteristics of a cash-settled option is that its exercise is functionally equivalent to trading out of the long position, and, conversely, the assignment of a short index option eliminates the position as if it had been closed through a purchase transaction. Absent any restrictions upon exercise, holders of long positions would be able to exercise their options after the close of trading and during trading halts. Because holders of short positions are unable to trade out of their positions when trading has been closed or halted, they would be at a disadvantage to holders of long positions. To minimize the effect this disparity might have on holders of short positions in the event of a trading halt immediately prior to expiration of an option, the Exchange amended CBOE Rule 4.16(a) in 1983 to permit the Exchange's Board of Directors to restrict exercises of index options other than on the last trading day before expiration Friday.¹² Exercises of expiring index options cannot be restricted in any way on expiration Friday.

Since 1991 the Exchange has permitted the exercise of index options for a "five minute window" subsequent

to the close of trading on the Exchange.¹³ The rule permitting the exercise of cash-settled index options up to 3:20 p.m. (CT) allows market participants to make investment decisions based on the evaluation of their final positions after having completed trading for the day. In addition, by allowing traders and market makers to concentrate on their trading activities, rather than submitting exercise advice prior to the close of the market, and to determine whether or not their hedging orders on other markets were executed, as well as to their exercise their index option positions on the Exchange if necessary to avoid remaining unhedged overnight, the five-minute window benefits options investors generally by fostering higher quality markets. Moreover, the additional five-minute exercise period provides market participants with additional time to evaluate the closing prices of the securities that comprise an index and to determine whether or not to exercise their positions.¹⁴ Thus, in light of these benefits, the Exchange adopted the five-minute window permitting exercises after the close of trading on the Exchange notwithstanding that investors holding short positions in index options would not have the same opportunity to unwind their positions during this period as would holders of long positions. In doing so, the Exchange deemed the benefits to the overall OEX index market from the five-minute exercise period to exceed any potential harm that might result to short holders as a result of the disparity in trading opportunities.

The Exchange has now reconsidered its policy with respect to the exercise of American-style, cash-settled index options and proposes to eliminate the current ban on exercises with respect to trading halts in such options that occur at or after 3:00 p.m. (CT). As mentioned, the trading markets for the equity securities underlying index options generally are closed for trading by 3:00 p.m. (CT), thereby establishing the closing value of a given index. By this time, OEX market participants are already watching the market for opportunities to exercise their options. Many participants in the OEX index options market use the closing value of the index to make trading and hedging decisions (including transactions in the related futures market) contingent upon exercise of an OEX index option

position or the expected assignment of a short position. Given this, the Exchange believes that the occurrence of trading halt at or after 3:00 p.m. (CT) should not fundamentally alter the ability of these market participants to exercise their index options.¹⁵ While permitting the exercise of index options during trading halts that occur at or after 3:00 p.m. (CT) increases the disparity in trading opportunities between holders of short and long positions in OEX index options, the Exchange believes that any increase in disparity is incremental over the situation that exists today by virtue of the five-minute exercise window after the close of the Exchange, and would be exceeded by the additional benefits that would be afforded to the OEX market under the proposed Rule.¹⁶

The Exchange also believes that a uniform policy of permitting exercises of OEX index options after the close of the Exchange will reduce the potential for confusion among its members and customers, especially during late trading halts. In doing so, such a policy would further the efficient operation of the Exchange during such periods. To the extent that a closing rotation were held after a late trading halt, the Exchange proposes that exercises of American-style, cash-settled index options would continue to be permitted during the rotation and for a five-minute period thereafter, as is currently the case.

The Exchange also proposes to amend CBOE Rules 4.16(b) and CBOE Rule 11.1.03, and proposes to reflect these corresponding changes in the Exercise Regulatory Circular to make clear that in the case of an American-style, cash-settled FLEX Index Option, the references in CBOE Rule 4.16(b), CBOE Rule 11.1.03, and the Exercise Regulatory Circular to a trading delay, halt, suspension, resumption, closing rotation, or modified trading hours will mean the occurrence of the applicable condition in the standardized option on the index underlying the FLEX Index Option (rather than the occurrence of

⁹ See Amendment No. 1, *supra* note 4.

¹⁰ *Id.*

¹¹ Notwithstanding this prohibition, the exercise of a cash-settled index option may be processed and given effect in accordance with and subject to the rules of the OCC while trading in an option is delayed, halted, or suspended if it can be documented that the decision to exercise the option was made during allowable time frames prior to the delay, halt or suspension. CBOE Rule 11.1.05 (which is now proposed to be moved to proposed CBOE Rule 11.1.03(h)(i)). Exercise of Option Contracts.

¹² CBOE Rule 4.16(a), *Other Restrictions on Options Transactions and Exercises*; See also, Securities Exchange Act Release No. 19590 (March 10, 1983), 48 FR 11196 (March 16, 1983) (File No. SR-CBOE-83-6); and see Amendment No. 1, *supra* note 4.

¹³ See Securities Exchange Act Release No. 29860 (October 25, 1991), 56 FR 56264 (November 1, 1991) (File No. SR-CBOE-91-28).

¹⁴ *Id.*

¹⁵ While the implementing the standard five-minute exercise window after a trading halt has been announced would provide floor traders with sufficient opportunity to exercise, such a small window may not provide other market participants with a sufficient opportunity to do so and would add to the increased operational burdens of member firms resulting from the trading halt itself.

¹⁶ The Exchange generally will continue to prohibit American-style, cash-settled index option exercises during any trading halt which occurs before 3:00 p.m. (CT), as the length of time required to provide sufficient notice and opportunity equally to all market participants during an intraday trading halt would unfairly expand the opportunity for holders of long index option positions to exercise when short option holders are prohibited from trading.

the applicable condition in the FLEX Index Option itself).¹⁷ The Exchange states that this is consistent with how the Exchange has historically applied the exercise provisions that are applicable in the above market conditions to American-style, cash-settled FLEX Index Options, and the Exchange proposes herein to codify the Exchange's prior exercise practices as they apply to American-style, cash-settled FLEX Index Options.¹⁸

Thus, for example, if there is a trading halt that occurs before 3:00 p.m. in the standardized Standard & Poor's 500 Index (SPX) options (which are European-style options), exercises of American-style, cash-settled SPX FLEX options will be prohibited during the trading halt.¹⁹ However, based on the proposal, if there is a trading halt in the standardized SPX options that occurs at or after 3:00 p.m., exercises of American-style, cash-settled SPX FLEX options may occur through 3:20 p.m.²⁰ Additionally, based on the proposal, if there is a closing rotation in the standardized SPX options, exercises of American-style, cash-settled SPX FLEX options may occur during the closing rotation and for five minutes after the end of the closing rotation.²¹ If there were no provision which provided for the foregoing, the holder of an American-style, cash-settled SPX FLEX option would have no ability to exercise the option during a closing rotation because CBOE Rule 24A.3 does not permit closing rotations to be conducted in FLEX options.²² The purpose of the provisions discussed above is to avoid this differential treatment and to treat all American-style, cash-settled index options in the same manner with regard to exercise restrictions.²³

Additionally, with the exception of some nonsubstantive wording changes, the Exchange is proposing to move the text of CBOE Rule 11.1.05 to proposed CBOE Rule 11.1.03(h) for ease of reference for Exchange members since CBOE Rule 11.1.05 relates to the exercise of American-style, cash-settled index options and the provisions of Rule 11.1 that specifically relate to the exercise of American-style, cash-settled index options are set forth in Rule 11.1.03.²⁴ The Exchange is also proposing to amend the Exercise Regulatory Circular to reflect recently

adopted changes to CBOE Rule 4.16(b) and CBOE Rule 11.1.05 (which is now proposed to be moved to proposed CBOE Rule 11.1.03(h)),²⁵ which permit the President of the Exchange (or his designee) to allow the exercise of American-style, cash-settled index options during any trading delay, halt or suspension.²⁶ As noted in the Exercise Regulatory Circular, the Exchange anticipates that, in general, such a determination would be based on extraordinary circumstances.²⁷

The Exchange also proposes to narrow the evidence that may be submitted to the Exchange by a member to document that a decision to exercise an American-style, cash-settled option was made prior to a trading delay, halt or suspension. Exchange members are excepted from the general prohibition on exercising such index options during trading halts, delays, or suspensions provided they can document that the decision to exercise was made prior to the trading halt, delay, or suspension.²⁸ The Exchange believes that it would be preferable to rely on and encourage the most objective evidence available as to the timing of an exercise determination. Therefore, the Exchange proposes to no longer, ordinarily, accept internal exercise memoranda prepared by CBOE members as evidence of timely exercises. The Exchange will, however, continue to accept "exercise advices" transmitted via C/MAS or a member's copy of an exercise advice previously submitted to the Exchange as evidence that an exercise determination was made prior to a subsequent trading delay, halt, or suspension.²⁹

Further, the Exchange proposes to permit CBOE's President or his designee to extend the applicable deadline for the delivery of "exercise advice" and "advice cancel" notifications pursuant to CBOE Rule 11.1.03(c) for American-style, cash-settled index options if unusual circumstances are present.³⁰ The exercise deadline for standardized American-style, cash-settled index options is normally 3:20 p.m. (CT) and is in effect on every trading day except that the deadline is not in effect on expiration Friday for expiring contracts.³¹ On occasion, there may be situations in which the regular 3:20 p.m. (CT) deadline for CBOE members to notify the Exchange of exercise

decisions concerning and American-style, cash-settled index option may not allow market participants a sufficient amount of time in which to make and process those exercise decisions due to the presence of unusual circumstances.³² For example, there have been rare occasions in which the reporting authority for an index has been late in reporting the closing index value for the index.³³ Consequently, market participants have found it difficult on those occasions to make and process exercise decisions before the 3:20 p.m. (CT) deadline.³⁴ This amendment proposes to permit the President or his designee to extend the applicable deadline for the delivery of "exercise advice" and "advice cancel" notifications pursuant to CBOE Rule 11.1.03(c) for American-style, cash-settled index options in unusual situations like the foregoing.³⁵

Noncash-Settled Equity Options

The exercise cutoff time for noncash-settled options is 4:30 p.m. (CT) and is in effect on expiration Friday for expiring contracts. The cutoff time is only applicable with respect to expiring contracts on expiration Friday because at other times an option holder who makes a late decision to either exercise or not to exercise an option will always end up holding either the option or the underlying stock, the value of which will be similarly effected by any material late news.³⁶

For reasons comparable to the reasons for proposing to grant the President or his designee the authority to extend the exercise deadline for American-style, cash-settled index options, this amendment also proposes, under CBOE Rule 11.1(b) and CBOE Rule 11.1.06, to grant similar authority to the President or his designee to extend the 4:30 p.m. (CT) exercise cutoff time for a noncash-settled equity option if unusual circumstances are present (in which case, the Exchange proposes that the deadline for the delivery of an exercise instruction, "contrary exercise advice," and "advice cancel" pursuant to CBOE Rule 11.1.06 will be the revised exercise cutoff time designated by the President or his designee).³⁷ For example, there have been rare occasions in which the closing rotation in an equity option has ended shortly before 4:30 p.m. (CT).³⁸ A late-ending closing rotation delays a

¹⁷ See Amendment No. 1, *supra* note 4

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ See Securities Exchange Act Release No. 40951 (January 15, 1999), 64 FR 4482 (January 28, 1999) (File No. CBOE-98-33)

²⁷ See Amendment No. 1, *supra* note 4

²⁸ *Id.*

²⁹ See Exercise Regulatory Circular, Section 11

³⁰ See Amendment No. 1, *supra* note 4

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

market participant's ability to take the actions necessary to make and process an exercise decision. For example, in order to make and process an exercise decision, a market participant may need to obtain confirmations of trades executed that day, review the participant's positions in the applicable option and the underlying stock, review the closing price of the option and underlying stock, and/or prepare exercise instruction, "contrary exercise advice," and "advice cancel" forms. This amendment proposes to permit the President or his designee to extend the exercise cutoff time in unusual situations like the foregoing in order to allow market participants sufficient time in which to make and process exercise decisions.³⁹

American-Style, Cash-Settled Index Options and Noncash-Settled Equity Options

Under the Exchange's current rules, there is a time window following the close of trading during which long option holders are permitted to exercise their option positions while at the same time short option holders do not have the ability to trade out of their positions. Accordingly, one of the inherent differences between holding a long or short option position is that there is a disparity between the ability of long and short option holders to take market action following the close of trading.⁴⁰ The purpose of the Exchange's exercise deadline for American-style, cash-settled index options and the exercise cutoff time for noncash-settled equity options is to restrict this disparity to a limited time period following the close of trading in those situations in which long option holders have the ability to take action through the exercise or non-exercise of an option that can affect their position in the market.⁴¹ Although permitting the President or his designee to extend the applicable exercise deadline or cutoff time in unusual circumstances would marginally increase this existing disparity, the Exchange believes any potential detriment that may result from the foregoing would be far exceeded by the benefit to the marketplace as a whole that is derived from allowing the President or his designee to permit market participants sufficient time in which to make and process exercise decisions.⁴² The Exchange also notes that the President or his designee will only exercise this authority in unusual

circumstances and thus extensions in the applicable exercise deadline or cutoff time will not occur often.⁴³

Similarly, in exercising the authority to extend the exercise deadline for an American-style, cash-settled index option or the exercise cut-off time for a noncash-settled equity option in unusual circumstances, the Exchange states that the President or his designee would in no event extend the applicable exercise deadline or cut-off time beyond the exercise cut-off time required by the Options Clearing Corporation ("OCC").⁴⁴ Chapter VIII of OCC's Rules generally sets forth the applicable OCC exercise cut-off times.⁴⁵

2. Statutory Basis

The proposed rule change will benefit the market for American-style, cash-settled index options (including OEX options) by permitting market participants to utilize the closing value of such indexes to make trading and hedging decisions (including transactions in the related futures market) contingent upon the ability to exercise a long index option position or the expected assignment of a short index option position. The proposed rule change will also benefit market participants by permitting the President or his designee to extend the applicable deadline for the delivery of Exchange-required exercise notifications, for either American-style, cash-settled index options or noncash-settled equity options, to allow market participants sufficient time to make and process exercise decisions in the event that unusual circumstances are present which make it difficult to make and process exercise decisions during the regular time frame for doing so.⁴⁶ Additionally, the proposed rule changes will clarify, refine, and enhance the Exchange's rules relating to the exercise of option contracts.⁴⁷

Accordingly, the exchange believes that the proposed rule change is consistent with Section 6 of the Act, and in particular, with Section 6(b)(5),⁴⁸ in that it is designed to, among other things, foster cooperation and coordination with persons engaged in regulating, clearing, settling, and processing information regarding the exercise of outstanding option contracts, to remove impediments to and perfect the mechanism of a free and open

market, and to protect investors and the public interest.⁴⁹

B. Self-Regulatory Organization's Statement on Burden on Competition

The exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the *Federal Register* or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549-0069. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549-0609. Copies of such filing will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to the File No. SR-CBOE-99-03

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ See OCC, Chapter VIII, (Exercise and Assignment).

⁴² See Amendment No. 1, *supra* note 4.

⁴³ *Id.*

⁴⁴ 5 U.S.C. 70f(b)(5).

⁴⁹ See Amendment No. 1 *supra* note 4.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*

and should be submitted by June 22, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁵⁰

Margaret H. McFarland,

Deputy Secretary.

EXHIBIT A

(Proposed new language of the Rules of the Exchange as currently in effect is italicized; proposed deletions are in [brackets].)

Chicago Board Options Exchange, Incorporated Rules

CHAPTER IV—Business Conduct

Other Restrictions on Options Transactions and Exercises

RULE 4.16

(a) Unchanged.

(b) [With the exception of the last business day prior to expiration, exercises of cash-settled index options shall be prohibited during any time when trading in such options is delayed, halted, or suspended, unless otherwise determined by the President or his designee. Notwithstanding such a prohibition, the exercise of a cash-settled index option may be processed and given effect in accordance with and subject to the rules of the Clearing Corporation while trading in the option is delayed, halted, or suspended if it can be documented that the decision to exercise the option was made during allowable time frames prior to the delay, halt, or suspension.] *Exercises of American-style, cash-settled index options shall be prohibited during any time when trading in such options is delayed, halted, or suspended, subject to the following exceptions:*

(i) *The exercise of an American-style, cash-settled index option may be processed and given effect in accordance with and subject to the rules of the Clearing Corporation while trading in the option is delayed, halted, or suspended if it can be documented, in a form prescribed by the Exchange, that the decision to exercise the option was made during allowable time frames prior to the delay, halt, or suspension.**

(ii) *Exercises of expiring American-style, cash-settled index options shall not be prohibited on the last business day prior to their expiration.**

(iii) *Exercises of American-style, cash-settled index options shall not be prohibited during a trading halt that occurs at or after 3:00 p.m. (CT). In the event of such a trading halt, exercises*

may occur through 3:20 p.m. (CT). In addition, if trading resumes following such a trading halt (such as by closing rotation), exercises may occur during the resumption of trading and for five (5) minutes after the close of the resumption of trading. The provisions of this subparagraph (b)(iii) are subject to the authority of the Board to impose restrictions on transactions and exercises pursuant to paragraph (a) of this Rule.

(iv) *The President or his designee may determine to permit the exercise of American-style, cash-settled index options while trading in such options is delayed, halted, or suspended.**

In the case of an American-style, cash-settled FLEX Index Option, the references in this paragraph (b) to a trading delay, halt, suspension, resumption, or closing rotation shall mean the occurrence of the applicable condition in the standardized option on the index underlying the FLEX Index Option (rather than the occurrence of the applicable condition in the FLEX Index Option itself).

... Interpretations and Policies:

.01 Unchanged.

.02 Unchanged.

* With the exception of some wording changes, these provisions are currently generally set forth in Rule 4.16(b) and are not newly proposed provisions.

CHAPTER XI—Exercises and Deliveries

Exercise of Option Contracts

RULE 11.1

(a) Unchanged.

(b) The exercise cutoff time for all noncash-settled options shall be 4:30 p.m. (CT) on the business day immediately prior to the expiration date. This is the latest time at which an exercise instruction for expiring noncash-settled positions may be (1) Prepared by a Clearing Member for its proprietary positions, (2) submitted to a Clearing Member by a member (including, but not limited to, a Market Maker or Floor Broker), or (3) accepted by a Clearing Member from or on behalf of a customer. *The President or his designee may determine to extend the 4:30 p.m. (CT) exercise cutoff time for a noncash-settled options if unusual circumstances are present.* Notwithstanding the foregoing, members may prepare, submit or accept exercise instructions for noncash-settled options after the applicable exercise cutoff time but prior to expiration (i) In order to remedy mistakes or errors made in good faith, (ii) to take appropriate action as the result of a failure to

reconcile unmatched Exchange transactions, or (iii) where exceptional circumstances relating to a customer's or member's ability to communicate exercise instructions to a Clearing Member (or a Clearing Member's ability to receive exercise instructions) prior to such cutoff time warrant such action.

(c)–(d) Unchanged.

... Interpretations and Policies:

.01–.02 Unchanged.

.03 Clearing Members must follow the procedures of the Clearing Corporation when exercising American-style, cash-settled index option contracts issued or to be issued in any account at the Clearing Corporation. Members must also follow the procedures set forth below with respect to American-style, cash-settled index options:

(a) For all contracts exercised by the member or by any customer of the member, an "exercise advice" must be delivered by the member in such form or manner prescribed by the Exchange to a place designated by the Exchange no later than 3:20 p.m. (CT), or if trading hours are extended or modified in the applicable option class, no later than five (5) minutes after the close of trading on that day.

(b) Subsequent to the delivery of an "exercise advice", should the member or a customer of the member determine not to exercise all or part of the advised contracts, the member must also deliver an "advice cancel" in such form or manner prescribed by the Exchange to a place designated by the Exchange no later than 3:20 p.m. (CT), or if trading hours are extended or modified in the applicable option class, no later than five (5) minutes after the close of trading on that day.

(c) *The President or his designee may determine to extend the applicable deadline for the delivery of "exercise advice" and "advice cancel" notifications pursuant to this Interpretation .03 if unusual circumstances are present.*

(d) [(c)] No member may prepare, time stamp or submit an "exercise advice" prior to the purchase of the contracts to be exercised if the member knew or had reason to know that the contracts had not yet been purchased.

(e) [(d)] The failure of any member to follow the procedures in this Interpretation .03 may be referred to the Business Conduct Committee and result in the assessment of a

⁵⁰ 17 CFR 200.30–3(a)(12).

fine, which may include but is not limited to disgorgement of potential economic gain obtained or loss avoided by the subject exercise, as determined by the Committee.

(f)(e) Preparing or submitting an "exercise advice" or "advice cancel" after the applicable deadline on the basis of material information released after such deadline, in addition to constituting a violation of this Rule, is activity inconsistent with just and equitable principles of trade.

(g)(f) The procedures set forth in subparagraphs (a)–(b) of this Interpretation .03 do not apply (i) on the business day prior to expiration in series expiring on a day other than a business day or (ii) on the expiration day in series expiring on a business day.

(h)(g) Exercises of American-style, cash-settled index options (and the submissions of corresponding "exercise advice" and "advice cancel" forms) shall be prohibited during any time when trading in such options is delayed, halted, or suspended, subject to the following exceptions:*

(i) The exercise of an American-style, cash-settled index option may be processed and given effect in accordance with and subject to the rules of the Clearing Corporation while trading in the option is delayed, halted, or suspended if it can be documented, in a form prescribed by the Exchange, that the decision to exercise the option was made during allowable time frames prior to the delay, halt, suspension. Acceptable documentation shall ordinarily be limited to an "exercise advice" previously transmitted via C/MACS or a member's copy of an "exercise advice" previously submitted to the Exchange.*

(ii) Exercises of expiring American-style, cash-settled index options shall not be prohibited on the last business day prior to their expiration.*

(iii) Exercises of American-style, cash-settled index options shall not be prohibited during a trading halt that occurs at or after 3:00 p.m. (CT). In the event of such a trading halt, exercises may occur through 3:20 p.m. (CT). In addition, if trading resumes following [such] a trading halt (such as by closing rotation), exercises may occur during the resumption of trading for five (5) minutes after the close of the resumption of trading. The provisions of this subparagraph (iii)

are subject to the authority of the Board to impose restrictions on transactions and exercises pursuant to Rule 4.16(a).

(iv) The President or his designee may determine to permit the exercise of American-style, cash-settled index options while trading in such options is delayed, halted, or suspended.*

In the case of an American-style, cash-settled FLEX Index Option, the references in this paragraph (h) to a trading delay, halt, suspension, resumption, or closing rotation shall mean the occurrence of the applicable condition in the standardized option on the index underlying the FLEX Index Option (rather than the occurrence of the applicable condition in the FLEX Index Option itself).

.04 Unchanged.

.05 [With the exception of the last business day prior to expiration, exercises of cash-settled index options (and the submission of corresponding "exercise advice" and "advice cancel" forms) shall be prohibited in accordance with Rule 4.16(b) during any time when trading in such options is delayed, halted or suspended, unless otherwise determined by the President or his designee. Notwithstanding such a prohibition, the exercise of a cash-settled index option may be processed and given effect in accordance with and subject to the rules of the Clearing Corporation while trading in the option is delayed, halted, or suspended if it can be documented that the decision to exercise the option was made during allowable time frames prior to the delay, halt, or suspension.] Deleted effective, 1999(99–).

.06 Clearing Members must follow the procedures of the Clearing Corporation when exercising expiring noncash-settled equity option contracts. Members must also follow the procedures set forth below with respect to the exercise of noncash-settled equity option contracts which would otherwise not be exercised, or the nonexercise of such contracts which otherwise would be exercised, by operation of the exercise by exception provisions of Clearing Corporation Rule 805:

(a) For all contracts so exercised or not exercised by the member or by any customer of the member, as "contrary exercise advice" must be delivered by the member in such

form or manner prescribed by the Exchange to a place designated by the Exchange no later than 4:30 p.m. (CT).

(b) Subsequent to the delivery of a "contrary exercise advice", should the member or a customer of the member determine to act other than as reflected on the original advice form, the member must also deliver an "advice cancel" in such form or manner prescribed by the Exchange to a place designated by the Exchange no later than 4:30 p.m. (CT).

(c) The procedures set forth in subparagraphs (A)–(B) of this Interpretation .06 shall not apply with respect to any option class that is not subject to the exercise by exception provisions of Clearing Corporation Rule 805 ("Non Ex-by-Ex Option Class"). Instead, for all option contracts in a Non Ex-by-Ex Option Class that are exercised by the member or by a customer of the member, each exercise instruction that is prepared, submitted or accepted by the member with respect to such contracts must also be delivered by the member in such form or manner prescribed by the Exchange to a place designated by the Exchange no later than 4:30 p.m. (CT).

(d) The President or his designee may determine pursuant to Rule 11.1(b) to extend the 4:30 p.m. (CT) exercise cutoff time for a noncash-settled equity option if unusual circumstances are present. In the event of such an extension, the deadline for the delivery of an exercise instruction, "contrary exercise advice" and "advice cancel" pursuant to this Interpretation .06 shall be the revised exercise cutoff time designated by the President or his designee pursuant to Rule 11.1(b).

(e) [d] The member shall be excused from compliance with the procedures set forth in subparagraphs (a)–(c) of this Interpretation .06 in the event that one of the exceptions set forth in clause (i), (ii) or (iii) of Rule 11.1(b) is applicable and the member complies with the requirements of Interpretation .01 of this Rule.

(f) [e] The failure of any member to follow the procedures in this Interpretation .06 may be referred to the Business Conduct Committee and result in the assessment of a fine, which may include but is not limited to disgorgement of potential economic gain obtained or loss avoided by the subject exercise, as

determined by the Committee.
 (g)(1)(f) Preparing or submitting an exercise instruction, "contrary exercise advice" or "advice cancel" after the applicable deadline [4:30 p.m. (CT)] on the basis of material information released after such deadline [time], in addition to constituting a violation of this Rule, is activity inconsistent with just and equitable principles of trade.

07 Unchanged.

* With the exception of some wording changes, these provisions are proposed to be moved from Rule 11.1.05 and are not newly proposed provisions.

Regulatory Circular RG [98-90] 99 -

DATE: [August 24] ____, [1998] 1999
TO: Members and Member Organizations
FROM: Regulatory Services Division
RE: S&P 100 Index and American-Style FLEX Index Option Exercise Procedures

This memorandum describes [is being issued to remind members and member organizations of the] exercise procedures and requirements of Exchange Rules 11.1 and 24.18 as they pertain to the exercise of Standard & Poor's 100 Stock Index option contracts, American-Style FLEX Index Option contracts, and any other American-style cash-settled index option contracts.

1. Members who prepare their own exercise instruction memoranda must prepare and time stamp such memoranda upon making the decision to exercise.

2. Clearing firms must prepare and time stamp an exercise instruction memorandum upon receipt of instructions to exercise from a customer or market-maker or upon making the decision to exercise on behalf of a proprietary account.

3. An "exercise advice" must be submitted to the Exchange no later than 3:20 p.m. (CT) for all American-style, cash-settled index option contracts exercised. However, "exercise advices" are not required to be submitted to the Exchange (i) on the business day prior to expiration with respect to expiring non-FLEX American-style, cash-settled index option contracts, (ii) on the day of expiration with respect to expiring FLEX American-style cash-settled index option contracts that expire on a business day, or (iii) on the business days prior to expiration with respect to expiring FLEX American-style, cash-settled index option contracts that expire on a day other than a business day.

4. An "exercise advice" must be clearly and accurately completed prior to submission. Staff will not remove an

"exercise advice" for any alteration once it has been deposited in a drop-off box.

5. Clearing firms may enter exercises for any market-maker, customer, or proprietary account on OCC's Clearing Management and Control System (C/MACS) in lieu of physically delivering an "exercise advice" to the Exchange trading floor. Such entries must be made no later than 3:20 p.m. (CT) and serve as both an exercise instruction to OCC and an "exercise advice" to the Exchange.

6. Members acting on their own behalf or on behalf of a customer may only submit an "exercise advice" and exercise instruction for the "net long position" open in any series of American-style index options for the account at the time the advice or instruction is submitted. For a complete explanation of this requirement, members should refer to Exchange Rule 24.18 and to Exchange Regulatory Circular RG96-94.

7. If a member decides not to exercise all or part of the amount indicated on an "exercise advice" previously submitted to the Exchange, he or she must submit another "exercise advice" to the Exchange, with the cancel box checked, no later than 3:20 p.m. (CT). ("Exercise advice cancellations" do not cancel exercise instruction memoranda already submitted to the clearing firm).

8. The "exercise advice" drop-off boxes are located on the Exchange's trading floor adjacent to the OEX trading crowd. The drop-off boxes are removed at 3:20:59 p.m. (CT). Submitting an "exercise advice" or "exercise advice cancellation" after this time is a violation of Exchange Rule 11.1, and doing so on the basis of material information released after this time, in addition to violating Rule 11.1, may constitute activity inconsistent with just and equitable principles of trade. If a member inadvertently fails to submit an "exercise advice" or "exercise advice cancellation" before the applicable deadline, the member should still consider submitting the advice or cancellation to the Exchange's Department of Market Regulation as soon as possible after the deadline (even though a violation of Rule 11.1 will still exist) in order to help to establish the time at which the exercise decision was made.

9. The joint account participant who makes the decision to exercise on behalf of the joint account must indicate both the joint account acronym and his or her individual acronym on both the exercise instruction memorandum and the "exercise advice".

10. The submission of an "exercise advice" to the Exchange does not initiate an exercise at OCC; members must also submit an exercise instruction memorandum to their clearing firm.

11. In the event that any of the following market conditions are declared, the below provisions will apply (including C/MACS entries): [Delayed Opening other than on the Last Business Day Prior to Expiration: The "exercise advice" drop-off boxes will not be placed in the designated areas until trading commences. Exercises may not be effected, nor will "exercise advices" be accepted until trading commences.]

Delayed Opening or Trading Halt [other than on the Last Business Day Prior to Expiration]: Exercises of American-style, cash-settled index options (and the submission of corresponding "exercise advice" and "advice cancel" forms) shall be prohibited during any time when trading in such options is delayed, halted, or suspended, subject to the following exceptions:

(i) The exercise of an American-style, cash-settled index option may be processed and given effect in accordance with and subject to the rules of the Clearing Corporation while trading in the option is delayed, halted, or suspended if it can be documented, in a form prescribed by the Exchange, that the decision to exercise the option was made during allowable time frames prior to the delay, halt, or suspension. Acceptable documentation shall ordinarily be limited to an "exercise advice" previously transmitted to via C/MACS or a member's copy of an "exercise advice" previously submitted to the Exchange."

(ii) Exercises of expiring American-style, cash-settled index options shall not be prohibited on the last business day prior to their expiration."

(iii) Exercises of American-style, cash-settled index options shall not be prohibited during a trading halt that occurs at or after 3:00 p.m. (CT). In the event of such a trading halt, exercises may occur through 3:20 p.m. (CT). In addition, if trading resumes following such a trading halt (such as by closing rotation), exercises may occur during the resumption of trading and for five (5) minutes after the close of the resumption of trading. The provisions of this subparagraph (iii) are subject to the authority of the Board to impose restrictions on transactions and exercises pursuant to Rule 4.16(a).

(iv) The President or his designee may determine to permit the exercise of American-style, cash-settled index

options while trading in such options is delayed, halted, or suspended."

In general, such a determination would be based on extraordinary circumstances.

To the extent that exercises of American-style, cash-settled index options are not permitted due to a delayed opening, the "exercise advice" drop-off boxes will not be placed in the designated areas until trading commences. Exercises may not be effected, nor will "exercise advices" be accepted until trading commences. Exercises may not be effected, nor will "exercise advices" be accepted until trading commences.

To the extent that exercises of American-style, cash-settled index options are not permitted due to a trading halt, the "exercise advice" drop-off boxes will be immediately removed from the designated areas upon the declaration of the trading halt and will be returned to the designated areas upon the resumption of trading. [Exercises may not be effected, nor will "exercises advices" be accepted during a trading halt.] These restrictions shall remain in place until trading resumes.

[Notwithstanding both of the above, an exercise may be processed and given effect in accordance with and subject to OCC rules if it can be documented that the decision to exercise was made during allowable time frames prior to the delayed opening or trading halt. Acceptable documentation shall ordinarily be limited to an "exercise advice" previously transmitted via C/MACS, an internal exercise memorandum previously prepared and time-stamped by a member, or a member's copy of an "exercise advice" previously submitted to the Exchange.]

[Modified Trading Hours: The "exercise advice" drop-off boxes will be removed five minutes after the designated closing time in the event that trading hours are modified. Exercises may not be effected, nor will "exercise advices" be accepted after such time.]**

Closing Rotation: The "exercise advice" drop-off boxes will remain at the designated areas and "exercise advices" will be accepted until five minutes after the completion of the closing rotation.

Modified Trading Hours: If trading hours are extended or modified, the exercise deadline will be five minutes after the close of trading on that day instead of 3:20 p.m. (CT). The "exercise advice" drop-off boxes will be removed after the modified exercise deadline, and exercises may not be effected, nor will "exercise advices" be accepted, after such time.

FLEX Index Options: In the case of an American-style, cash-settled FLEX Index Option, the references in this Paragraph 11 to a trading delay, halt, suspension, resumption, closing rotation, or modified trading hours shall mean the occurrence of the applicable condition in the standardized option on the index underlying the FLEX Index Option (rather than the occurrence of the applicable condition in the FLEX Index Option itself).

12. The President or his designee may determine to extend the applicable deadline for the delivery of "exercise advice" and "advice cancel" notifications if unusual circumstances are present.

Any questions pertaining to index option exercises can be addressed to Karen Charleston at (312) 786-7724 or Pat Cerny at (312) 786-7722.

(Regulatory Circulars RG89-13, RG92-02, RG94-61, [and] RG96-95, and RG 98-90 Revised)

* With the exception of some wording changes, these provisions are currently generally set forth in Rule 4.16(b) and Rule 11.1.05 (which is now proposed to be moved to proposed Rule 11.1.03(h)) and are not newly proposed provisions, except that acceptable documentation under Section 11(i) of the Exercise Regulatory Circular is proposed to no longer include internal exercise memoranda.

** The provision regarding modified trading hours is proposed to be moved to after the provision regarding closing rotations and to be reworded without changing its substance.

[FR Doc. 99-13811 Filed 5-28-99; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41437; File No. SR-DTC-99-03]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Implementing the Pending Transfer Account

May 21, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on March 3, 1999, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared primarily by DTC. The Commission is

publishing this notice and order to solicit comments from interested persons and to grant accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to implement a pending transfer account to facilitate the use of collateral in financing transactions.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.²

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

DTC subjects deliveries and pledges to DTC's risk management controls.³ A delivery or pledge of securities is pending and not completed if the securities are then serving as collateral to secure the obligations of the delivering or pledging participant to DTC. Also, a free delivery or pledge is pending if the securities are money market instruments and were received by the delivering or pledging participant on that day in a valued delivery. The risk management controls remain in effect, and the pending delivery or pledge is recycled until daily money settlement is completed at DTC, which usually occurs at approximately 5:00 p.m. (eastern time). Prior to daily money settlement, a pending delivery or pledge (other than a free delivery or pledge of money market instruments received on that day in a valued delivery) will be completed if the participant subsequently has other collateral available to support the participant's obligations to DTC.

In financing transactions, a lender or tri-party agent often performs an evaluation of the collateral to insure that the collateral meets certain criteria. A tri-party agent acting on behalf of

² The Commission has modified the text of the summaries prepared by DTC.

³ DTC's risk management controls are a set of procedures designed to protect DTC against the loss that may result from a participant failure.

¹ 15 U.S.C. 78b(b)(1).

several lenders must also allocate the collateral among the individual lenders. The process of evaluation and allocation of collateral is labor intensive and time-consuming. Lenders and tri-party agents have informed DTC that they often do not begin the process of evaluating and allocating collateral until late in the day because they are reluctant to begin that process before DTC's risk management controls are released. Lenders and tri-party agents have also informed DTC that they could begin that process earlier in the day and could thus gain valuable processing time, if they could be assured that a pending delivery or pledge will be completed after DTC's risk management controls are released as long as DTC does not need the securities for collateral purposes.

At the request of participants, including participants which act as lenders and tri-party agents, DTC developed the pending transfer account. Under the proposed rule change, a participant delivering or pledging securities can indicate to DTC that if the participant has sufficient securities in its account to complete the delivery or pledge but the delivery or pledge is blocked by DTC's risk management controls, the securities are to be reserved in the participant's pending transfer account. Securities reserved in the participant's pending transfer account are reported throughout the day to the receiver or pledgee designated by the participant. Those securities are not available to the participant for any other activities at DTC and can only be released from the participant's pending transfer account during the day by the designated receiver or pledgee. The delivery or pledge will be completed when DTC releases its risk management controls only if DTC does not need the securities in the participant's pending transfer account for collateral purposes. DTC anticipates that the pending transfer account will be available for use by participants in the second quarter of 1999.

DTC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder since the pending transfer account will facilitate the use of collateral in certain financing transactions processed through DTC's facilities. According to DTC, the proposed rule change will be implemented consistently with the safeguarding of securities and funds in DTC's custody or control or for which it is responsible since securities reserved in the pending transfer account will be subject to DTC's existing risk management controls.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC perceives no adverse impact on competition by reason of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The proposed rule change was discussed with several participants. All participants were informed of the proposed rule change by a DTC Important Notice dated December 19, 1998. Written comments from DTC participants or others have not been solicited or received on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to facilitate the prompt and accurate clearance and settlement of securities transactions for which it is responsible.⁴ The Commission finds that the rule change is consistent with this obligation because reserving the position associated with financing transactions that recycle for risk management control and reporting to the lenders and tri-party agents that the position has been reserved, will provide lenders and tri-party agents with an assurance that the recycling transactions will have sufficient position to complete when DTC release its risk management controls. These additional assurances should allow lenders and tri-party agents to begin their collateral evaluation/allocation process earlier in the processing day and should result in an earlier movement of the funds associated with the financial transactions.

DTC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after publication of the notice of the filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after publication of the notice of the filing because use of the pending transfer service by a participant is voluntary and accelerated approval will permit DTC participants to immediately benefit from this service.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and

arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filings will also be available for inspection and copying at the principal office of DTC. All submissions should refer to the file number SR-DTC-99-03 and should be submitted by June 22, 1999.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-DTC-99-03) be, and hereby is, approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁵

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 99-13812 Filed 5-28-99; 8:45 am]

BILLING CODE 8010-01-M

SOCIAL SECURITY ADMINISTRATION

Statement of Organization, Functions and Delegations of Authority

This statement amends Part S of the Statement of the Organization, Functions and Delegations of Authority which covers the Social Security Administration (SSA). Chapter S1 covers the Office of the Deputy Commissioner, Finance, Assessment and Management. Notice is given that Subchapter S1N, the Office of Financial Policy and Operations, is being amended. The Division of Systems Security (S1NA6) within the Office of Financial Policy and Standards (S1NA) is being elevated to an office-level component. The changes are as follows:

Section S1N.10 The Office of Financial Policy and Operations—(Organization):

⁴ 15 U.S.C. 78q-1(b)(3)(F)

⁵ 17 CFR 200.30-3(a)(12).

D. The Office of Financial Policy and Systems Design (S1NA).

Delete:

3. The Division of Systems Security (S1NA6). Renumber "4" to "3."

Section S1N.20 The Office of Financial Policy and Operations—(Functions):

D. The Office of Financial Policy and Systems Design (S1NA).

Delete in its entirety:

3. The Division of Systems Security (S1NA6). Renumber "4" to "3."

Section S1N.10 The Office of Financial Policy and Operations—(Organization):

Establish:

G. The Office of Systems Security (S1NG).

Section S1N.20 The Office of Financial Policy and Operations—(Functions):

Establish:

G. The Office of Systems Security (S1NG) directs, coordinates and manages SSA's overall information systems security program. This includes the development of SSA's security policy requirements and procedures, the effective implementation of other governing directives in the area of security, the administration of an effective access control program and an onsite review program. It provides educational training and awareness programs to management and employees on security policy/requirements; serves as the Agency focal point for day-to-day contact with the Office of Inspector General on matters of fraud, waste and abuse; and provides direction and guidance to the Agency's component and regional security officers.

The Office is also responsible for developing and implementing security requirements/safeguards for SSA's State information exchange program.

Dated: May 21, 1999.

Paul D. Barnes,

Deputy Commissioner for Human Resources.

[FR Doc. 99-13778 Filed 5-28-99; 8:45 am]

BILLING CODE 4190-29-U

TENNESSEE VALLEY AUTHORITY

Privacy Act of 1974: Republication of Notice of Systems of Records

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Notice of republication of systems of records; notice of proposed new system of records; notice of new routine uses.

SUMMARY: In accordance with 5 U.S.C. 552a(e)(4), the Tennessee Valley

Authority (TVA) is republishing in full a notice of the existence and character of each TVA system of records.

TVA is also proposing to add a new system of records entitled TVA-38 "Wholesale and Retail Data Files." Further details of this system of records are in the SUPPLEMENTARY INFORMATION section of this notice.

TVA is deleting system TVA-3 "Upgrade Craft Training Program." This program has ended and the retention period for these records has expired.

TVA is deleting TVA-4 "Demonstration Farm Records" and TVA-27 "Test Demonstration Farm Records." These programs have ended and the records have been transferred to the National Archives in East Point, Georgia.

TVA is deleting TVA-16 "Land Between The Lakes, Register of Law Violations," and TVA-35 "Building Access Security Records." These systems are no longer in use and the records are now filed as part of system TVA-37 "U.S. TVA Police Records."

TVA is deleting TVA-33 "Office of Nuclear Power Call Detail Records." The nuclear records are no longer filed separately and are now part of system TVA-32 "Call Detail Records."

TVA is renaming TVA-9 "Medical Records Systems" to "Health Records;" TVA-21 "Nuclear Assurance and Licensing Personnel Records" to "Nuclear Assurance Personnel Records;" and TVA-22 "Questionnaire—Farms in Vicinity of Proposed or Licensed Nuclear Power Plant" to "Questionnaire—Land Use Surveys in Vicinity of Proposed or Licensed Nuclear Power Plant." These name changes are made to better reflect the content of the systems of records.

TVA is adding a new routine use to three systems: TVA-2 "Personnel Records," TVA-23 "Radiation Dosimetry Personnel Monitoring Records," and TVA-26 "Retirement System Records."

TVA is also correcting minor typographical and stylistic errors in previously existing notices and has updated those notices to reflect current organizational structure. Also, updates are being made to show any changes to system locations; managers and addresses; categories of individuals and records; procedures and practices for storing, retrieving, accessing, retaining, and disposing of records.

DATES: Submit comments on or before July 1, 1999.

ADDRESSES: Address all comments concerning this notice to Wilma H. McCauley, Privacy Act Officer, TVA, 1101 Market Street (WR 4Q), Chattanooga, TN 37402-2801.

FOR FURTHER INFORMATION CONTACT:

Wilma H. McCauley at (423) 751-2523.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 552a(e)(4), TVA is today republishing a notice of the existence and character of each of its systems of records in order to make available in one place in the Federal Register the most up-to-date information regarding these systems. This has become necessary to reflect the organizational changes in the agency over the years.

TVA is proposing to establish a new system of records entitled TVA-38 "Wholesale and Retail Data Files." This system is maintained by TVA's Customer Service and Marketing (CS&M) organization to provide important information, both business and private, about TVA's customers to enable TVA to provide better customer service, and to establish emergency contact lists for its power distributors. Reports are being submitted to the Committee on Government Operation of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget pursuant to the Privacy Act and OMB Circular No. A-130. If no comments are received, this system will become effective as of July 1, 1999.

TVA is deleting six systems of records as follows: The program for TVA-3 "Upgrade Craft Training Program," has ended and the retention period for these records has expired in accordance with established TVA Comprehensive Records Schedules. The programs responsible for TVA-4 "Demonstration Farm Records" and TVA-27 "Test Demonstration Farms Records" have ended and the records have been transferred to the National Archives in East Point, Georgia, in accordance with established TVA Comprehensive Records Schedules. The duties and the records for TVA-16 "Land Between The Lakes, Register of Law Violations," and TVA-35 "Building Access Security Records" are now the responsibility of the U.S. TVA Police, and, therefore, have been incorporated into system U.S. "TVA-37 "U.S. TVA Police Records." TVA-33 "Office of Nuclear Power Call Detail Records" are now part of system TVA-32 "Call Detail Records." This resulted because it is no longer necessary to file the nuclear call detail records separately.

TVA is renaming the following three systems of records to better reflect the contents of these systems. TVA-9 "Medical Records Systems" is being renamed to "Health Records." This system of records is now the

responsibility of the Health Services organization. TVA-21 "Nuclear Assurance and Licensing Personnel Records" is being renamed to "Nuclear Assurance Personnel Records" to reflect the name change of the responsible organization. TVA-22 "Questionnaire-Farms in Vicinity of Proposed or Licensed Nuclear Power Plant" is being changed to "Questionnaire-Land Use Surveys in Vicinity of Proposed or Licensed Nuclear Power Plant." The program was developed to evaluate farms within a two mile radius, and was the responsibility of the TVA Agricultural Institute. The program is currently the responsibility of the Radiological Control group and involves all individuals living within a five mile radius in accordance with Nuclear Regulatory Commission (NRC) regulations.

TVA is adding a new routine use to three systems: TVA-2 "Personnel Records," TVA-23 "Radiation Dosimetry Personnel Monitoring Records," and TVA-26 "Retirement System Records" to include health related agencies, organizations, or professionals for the purpose of compiling health statistics or biomedical investigations for employee population health monitoring.

TVA is also correcting minor typographical and stylistic errors in the previous existing systems. In addition, TVA is updating the system locations; managers and addresses; notification; categories of individuals covered; categories of records; storage policies and practices; retention and disposal; record access; and contesting record procedures. These changes are necessary to reflect TVA's current organizational structure, advanced technology, and procedural changes.

This document gives notice that the following TVA systems of records below are in effect:

Table of Contents

TVA-1	Apprentice Training Records.
TVA-2	Personnel Files.
TVA-5	Discrimination Complaint Files.
TVA-6	Employee Accident Information.
TVA-7	Employee Accounts Receivable.
TVA-8	Employee Alleged Misconduct Investigatory Files.
TVA-9	Health Records.
TVA-10	Employee Statement of Employment and Financial Interests.
TVA-11	Payroll Records.
TVA-12	Travel History Records.
TVA-13	Employment Applicant Files.
TVA-14	Grievance Records.
TVA-15	Land Between The Lakes. Hunter Records.
TVA-18	Employee Supplementary Vacancy Announcement Records.
TVA-19	Consultant and Personal Service Contractor Records.

TVA-21	Nuclear Assurance Personnel Records.
TVA-22	Questionnaire-Land use Surveys in Vicinity of Proposed or Licensed Nuclear Power Plant
TVA-23	Radiation Dosimetry Personnel Monitoring Records
TVA-26	Retirement System Records
TVA-28	Woodland Resource Analysis Program Input Data
TVA-29	Electricity Use, Rate, and Service Study Records.
TVA-30	Land Between The Lakes. Mailing Lists.
TVA-31	OIG Investigative Records
TVA-32	Call Detail Records
TVA-34	Project/Tract Files.
TVA-36	Section 26a Permit Application Records.
TVA-37	U.S. TVA Police Records

TVA also gives notice of the proposal to add:

TVA-38 Wholesale and Retail Data Files.

TVA-1

SYSTEM NAME:

Apprentice Training Records—TVA.

SYSTEM LOCATION:

Labor Relations Staff, TVA, Knoxville, TN 37902-1499; Human Resource Information Systems, TVA, Knoxville, TN 37902-1499; Computer Operations, TVA, Chattanooga, TN 37402-2801; all TVA locations where apprentices are employed.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former TVA apprentices.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employment, qualifications, and evaluation information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831-831dd; National Apprenticeship Act of 1937, 50 Stat. 664.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES

To the Bureau of Apprenticeship and Training, the Veterans' Administration, Tennessee Valley Trades and Labor Council, and the State and local Government agencies for reporting and evaluation purposes.

To respond to a request from a Member of Congress regarding the status of an apprentice.

To provide information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

To provide the following information to a prospective employer of a TVA or former TVA employee: Job description, dates of employment, reason for separation.

To the parties or complainants, their representatives, and impartial referees, examiners, administrative judges, or other decision makers in proceedings under the TVA grievance adjustment procedures, Equal Employment Opportunity procedures, Merit Systems Protection Board, or similar procedures.

To request information from a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information; and to request information from private individuals, if necessary, to obtain information relevant to a TVA decision concerning the hiring, retention, or promotion of an employee, the issuance of a security clearance, or other decision within the purposes of this system of records.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on automated data storage devices, microfiche, and in file folders.

RETRIEVABILITY:

Records are indexed by name, craft, job code, union code, and social security number.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties require such access. Files are kept in secured facilities.

RETENTION AND DISPOSAL:

Records are maintained in accordance with established TVA record retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Senior Vice President, Labor Relations, TVA, Knoxville, TN 37902-1499.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if information on them is maintained in this system of records should address

inquiries to the system manager named above. Requests should include the individual's full name, craft, and location of employment.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about them in this system of records should contact the system manager named above. Access will not be granted to investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment. Federal contracts, or access to classified information to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. Access will not be granted to testing or examination material used solely to determine individual qualification for appointment or promotion in the Federal service, the disclosure of which would compromise the objectivity or fairness of the testing or examination process.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains; General Aptitude Test Battery scores from State employment security office; references from employers, military and educational institutions; and evaluations from joint committee on apprenticeship.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from subsections (d); (e)(4)(H); and (f)(2), (3), and (4) of 5 U.S.C. 552a (section 3 of the Privacy Act of 1974) to the extent that disclosure of material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence, and to the extent that disclosure of testing and examination material would compromise the objectivity of the testing or examination process. This exemption is pursuant to 5 U.S.C.

552a(k)(5) and (6) and TVA regulations at 18 CFR 1301.24.

TVA-2

SYSTEM NAME:

Personnel Files—TVA.

SYSTEM LOCATION:

Human Resources, TVA, Knoxville, TN 37902-1499; Human Resource Information Systems, TVA, Knoxville, TN 37902-1499; area human resources offices throughout TVA; Information Services, TVA, Chattanooga, TN 37402-2801; National Personnel Records Center, St. Louis, MO 63118. Security/suitability investigatory files are located separately from other records in this system. Information on education, career counseling, or job performance may be maintained by the TVA organization that provides the training or career counseling or that employs the individual and by Equal Opportunity Staff. Duplicate or certain specifically temporary information may be maintained by human resources officers, supervisors, and administrative officers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former TVA employees, some contractors, applicants for employment, and applicants for employment by TVA contractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information related to education; qualifications; work history; interests and skills; test results; performance evaluation; career counseling; personnel actions; job description; salary and benefit information; service dates, including other Federal and military service; replies to congressional inquiries; medical data; call detail records for the Employee Service Center; and security investigation data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831-831dd; Executive Order 10577; Executive Order 10450; Executive Order 11478; Executive Order 11222; Equal Employment Opportunity Act of 1972, Pub. L. 92-261, 86 Stat. 103; Veterans' Preference Act of 1944, 58 Stat. 387, as amended; various sections of title 5 of the United States Code related to employment by TVA.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To disclose test results to State employment services.

To a State employment security office in response to a request relating to a former employee's claim for unemployment compensation.

To respond to a request from a Member of Congress regarding the status of an employee, former employee, or applicant.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating and prosecuting such violation, or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

To request from any pertinent source directly or through a TVA contractor engaged at TVA's direction, information relevant to a TVA decision concerning the hiring, retention, or promotion of an employee, the issuance of a security clearance, or other decision within the purposes of this system of records.

To provide information or disclose to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

To provide the following information, as requested, to a prospective employer of a TVA or former TVA employee: job descriptions, dates of employment, and reasons for separation.

To provide an official of another Federal agency information needed in the performance of official duties related to reconciling or reconstructing data files, in support of the functions for which the records were collected and maintained.

To provide information to multi-employer health and welfare and pension funds as reasonably necessary and appropriate for proper administration of the plan of benefits.

To provide information to TVA contractors engaged in making suitability determinations for their prospective employees under TVA contracts.

To contractors and subcontractors engaged at TVA's direction in providing support services to TVA in connection with mailing materials to TVA employees or other related services.

To provide information as requested to the Office of Personnel Management pursuant to Executive Orders 10450 and 10577 and other laws.

To any agency of the Federal Government having oversight or review authority with regard to TVA activities.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA

attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To transfer information necessary to support a claim for life insurance benefits under Federal Employees' Group Life Insurance to Office of Federal Employees' Group Life Insurance.

To transfer information regarding claims for health insurance benefits to health insurance carrier.

To union representatives in exercising their responsibilities under TVA collective-bargaining agreements.

To the parties or complainants, their representatives, and impartial referees, examiners, administrative judges, or other decision makers in proceedings under the TVA grievance adjustment procedures, Equal Employment Opportunity procedures, Merit Systems Protection Board, or similar procedures.

To TVA contractors and subcontractors engaged at TVA's direction in studies and evaluation of TVA personnel management and benefits; or the investigation of nuclear safety, reprisal, or other matters involving TVA personnel practices or policies; or the implementation of TVA personnel policies.

To provide pertinent information to local school districts and other Government agencies in order to study TVA project impacts and to aid school districts in qualifying for assistance under Pub. L. 81-874 and other laws.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

To commemorate the month and day of employee birthday anniversaries.

To the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services Federal Parent Locator System (FPLS) and Federal Tax Offset System for use in locating individuals and identifying their income sources to establish paternity, establish and modify orders of support, and for enforcement action.

To the Office of Child Support Enforcement for release to the Social Security Administration for verifying social security numbers in connection with the operation of the FPLS by the Office of Child Support Enforcement.

To the Office of Child Support Enforcement for release to the Department of Treasury for purposes of administering the Earned Income Tax

Credit Program (Section 32, Internal Revenue Code of 1986) and verifying a claim with respect to employment in a tax return.

Personnel records may be used for employee population health monitoring which includes routine clinical and epidemiological investigations. Such studies may require the transfer of selected items of radiation dosimetry data to health-related agencies, organizations, or professionals for the purpose of compiling vital health statistics, or conducting biomedical investigations.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and on automated data storage devices (including optical disk) and microfiche.

INDEXING:

Records are indexed by name and social security number.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. All filing systems are locked when unattended. Remote access facilities are secured through physical and system-based safeguards.

RETENTION AND DISPOSAL:

Personal History Records:

Nonmicrofilmed records stored at National Personnel Records Center and microfilmed and optical disk records stored at TVA are destroyed 75 years after birth date of employee or 60 years after date of earliest document in the record if the date of birth cannot be ascertained. Reference copies are destroyed when no longer needed.

Congressional inquiries are retained indefinitely; test records are retained 10 years; occupational register cards are retained 1 year, with the exception of apprentices which are retained for 5 years; some information maintained on magnetic tape is erased after 1 year; records are disposed of in accordance with established TVA records retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Senior Vice President, Human Resources, TVA, Knoxville, TN 37902-1499.

NOTIFICATION PROCEDURE:

Individuals wishing to learn if information on them is maintained in this system of records should address inquiries to the Manager, Employee Service Center, TVA, Knoxville, TN

37902-1499. Requests should include the individual's full name, employing division, job title, and date of birth. A social security number is not required but may expedite TVA's response.

In addition, current employees should address inquiries also to their supervisors or personnel officers.

RECORD ACCESS PROCEDURES:

Individuals seeking to gain access to information about them in this system of records should contact the Manager, Employee Service Center, TVA, Knoxville, TN 37901-1499. In addition, current employees may present requests for access to their supervisors or the human resource officer of the employing division. Requests should include the individual's full name, employing division, job title, and date of birth. A social security number is not required but may expedite TVA's response. Access will not be granted to investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or access to classified information to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. Access will not be granted to testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal Service the disclosure of which would compromise the objectivity or fairness of the testing or examination process.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the Manager, Employee Service Center, TVA, Knoxville, TN 37902-1499.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains; educational institutions; former employers; and other reference sources; State employment services; supervisors and other TVA personnel or personnel records; medical officers; other Federal agencies.

In addition to the above sources, security/suitability investigatory files contain information from law enforcement agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from subsections (d); (e)(4)(H); and (f)(2), (3) and (4) of 5 U.S.C. 552a (section 3 of the Privacy Act of 1974) to the extent that disclosure of material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence, and to the extent that disclosure of testing or examination material would compromise the objectivity or fairness of the testing or examination process. This exemption is pursuant to 5 U.S.C. 552a(k)(5) and (6) and TVA regulations at 18 CFR 1301.24.

TVA-5**SYSTEM NAME:**

Discrimination Complaint Files—TVA.

SYSTEM LOCATION:

Equal Opportunity Compliance Staff, TVA, Knoxville, TN 37902-1499. Duplicate copies may be maintained in the files of the TVA organization where the complaint originated.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees, former employees, or applicants who have received counseling or filed complaints of discrimination based on race, color, religion, sex, national origin, age, reprisal, or handicap.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information or documents relating to a decision or determination made by TVA or the Equal Employment Opportunity Commission affecting an individual. The records consist of the precomplaint counseling report, initial appeal or complaint, letters or notices to the individual, record of hearings when conducted, materials placed into the record to support the decision or determination, affidavits or statements, testimonies of witnesses, investigative reports, and related correspondence, opinions, and recommendations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831-831dd; Executive Order 11478; 42 U.S.C. 2000e-16; 29 U.S.C. 633a.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A report of each complaint is made to the Equal Employment Opportunity Commission. If an administrative appeal is filed, the entire file is disclosed to the Equal Employment Opportunity Commission.

To the employee's representative.

To respond to a request from a Member of Congress regarding the status of a complaint.

To the parties of complainants, their representatives, and impartial referees, examiners, administrative judges, or other decision makers in proceedings under the TVA grievance adjustment procedures, Equal Employment Opportunity procedures, Merit Systems Protection Board, or similar procedures.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating and prosecuting such violation, or charged with enforcing or implementing the statute, rule, regulations, or order issued pursuant thereto.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To TVA consultants, contractors, and subcontractors who are engaged in studies and evaluation of TVA's administration of its Equal Employment Opportunity program or who are providing support services to the program.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Records in this system are kept in file folders.

RETRIEVABILITY:

Records in this system are indexed by name.

SAFEGUARDS:

Access to and use of these records are limited to those personnel whose official duties require such access.

RETENTION AND DISPOSAL:

These records are retained in accordance with established TVA records retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Equal Opportunity Compliance, TVA, Knoxville, TN 37902-1499.

NOTIFICATION PROCEDURE:

Individuals who have filed discrimination complaints are aware of that fact. However, inquiries may be addressed to the system manager named above. Individuals should provide their full name, the approximate date of their complaint, and their employing organization, if employed.

RECORD ACCESS PROCEDURES:

Individuals who have filed a discrimination complaint have been provided a copy of the record. However, an individual may gain access to the official copy of the complaint record by writing the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals who have filed a discrimination complaint have had an opportunity during the complaint procedure to amend their record. However, request for amendment or correction of items not involving the complaint procedure may be addressed to the system manager named above.

RECORD SOURCE CATEGORIES:

The individual to whom the record pertains; TVA personnel and other records; witnesses.

TVA-6**SYSTEM NAME:**

Employee Accident Information-TVA.

SYSTEM LOCATION:

TVA Corporate Health and Safety, Knoxville, TN 37902-1499. Accident reports may also be maintained in the file of the employing organization.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees who have sustained a work-related injury or illness or have been involved, as the operator of a TVA vehicle, in a vehicular accident.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal identifying information and information related to the accident, injury, or illness.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831-831dd; Executive Order 12196; Occupational Safety and Health Act of 1970, Pub. L. 93-237, 87 Stat. 1024.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the Department of Labor as required by the Occupational Safety and Health Act.

To the Office of Workers' Compensation Programs in relation to an individual's claim for compensation.

To respond to a request from a Member of Congress regarding the status of an employee.

To provide information to a Federal agency, in response to its request in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

To request information from a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information, or other pertinent information; and to request information from private individuals, if necessary, to obtain information relevant to a TVA decision concerning the hiring, retention, or promotion of an employee, the issuance of a security clearance, or other decision within the purpose of this system of records.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating and prosecuting such violation, or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Information in this system is maintained on automated data storage devices and in file folders.

RETRIEVABILITY:

Records are indexed by name, date of birth, and social security number.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. All filing systems are locked when unattended. Remote access facilities are secured through physical and system-based safeguards.

RETENTION AND DISPOSAL:

Records are retained for five years, and after that period are retained in accordance with established TVA records retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Safety Program Manager, TVA Corporate Health and Safety, Knoxville, TN 37902-1499.

NOTIFICATION PROCEDURE:

Individuals wishing to know whether information about them is maintained in this system of records should address inquiries to the system manager named above. Requests should include the individual's full name, date of birth, and approximate date of injury.

RECORD ACCESS PROCEDURES:

Individuals who desire access to information about them in this system of records should contact the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

The individual to whom the record pertains; TVA medical records; witnesses of accidents and inquiries, including appraisers of property damage.

TVA-7**SYSTEM NAME:**

Employee Accounts Receivable—TVA.

SYSTEM LOCATION:

Controller, TVA, Knoxville, TN 37902-1499; Office of the General Counsel, TVA, Knoxville, TN 37902-1499.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees or former employees who: Authorize a payment for specified purposes in their behalf; receive overpayment of earnings; receive duplicate payments; are otherwise indebted to TVA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal identifying information and information concerning indebtedness and repayment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831-831dd; 5 U.S.C. Chapter 55.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating and prosecuting such violation, or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Debt Collection Act of 1982 (31 U.S.C. 3711(d)(4)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Records are maintained on printouts, invoices, microfiche, and posting documents.

RETRIEVABILITY:

Records are indexed by payroll number, social security number, badge number, name, or invoice number.

APPLICABILITY

Access to and use of these records are limited to persons whose official duties require such access. Files are kept in secured facilities.

RETENTION AND DISPOSAL:

Printouts are disposed of in 3 years, invoices in 7 years, microfiche of registers in 50 years, and posting documents in 50 years.

SYSTEM MANAGER(S) AND ADDRESS:

Controller, TVA, Knoxville, TN 37902-1499.

NOTIFICATION PROCEDURE:

Individuals wishing to know whether information about them is maintained in this system of records should address inquiries to the system manager named above. Requests should include the individual's full name and employing organization. Provisions of the social security number is not required, but may expedite TVA's response and may prevent the erroneous retrieval of records for another individual with the same name.

RECORD ACCESS PROCEDURES:

Individuals who seek access to information about them in this system of records should contact the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in the system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

Individuals to whom the record pertains; TVA payroll records; TVA disbursement voucher records.

TVA-8**SYSTEM NAME:**

Employee Alleged Misconduct Investigatory Files—TVA.

SYSTEM LOCATION:

Office of the General Counsel, TVA, Knoxville, TN 37902-1499.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees or former employees about whom a complaint of misconduct during employment has been made.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information regarding conduct during employment with TVA which may be in violation of law or regulations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831-831dd; Executive

Order 10450; Executive Order 11222; Hatch Political Activity Act, 5 U.S.C. 7324-7327; 28 U.S.C. 535.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating and prosecuting such violation, or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

To provide information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decisions on that matter.

To the parties or complainants, their representatives, and impartial referees, examiners, administrative judges, or other decision makers in proceedings under the TVA, grievance adjustment procedures, Equal Employment Opportunity procedures, Merit Systems Protection Board, or similar procedures.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To request information from a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information and to request information from private individuals if necessary, to obtain information relevant to a TVA decision concerning the hiring, retention, or promotion of an employee, the issuance of a security clearance, or other decision within the purposes of this system of records.

To provide information as requested to the Office of Personnel Management pursuant to Executive Orders 10450 and 10577 and other laws.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Records are maintained in file folders.

INDEXING/ABILITY:

Records are indexed and retrieved by individual name or investigation number.

SAFEGUARDS:

These records, are stored in a locked GSA-approved security container. Access to the records is limited to TVA attorneys and their administrative assistants who have a need for them in the course of TVA business and to other TVA employees whose need is approved by Office of the General Counsel management.

RETENTION AND DISPOSAL:

Records are disposed of in accordance with established TVA records retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Office of General Counsel, TVA, Knoxville, TN 37902-1499.

NOTIFICATION PROCEDURE:

This system of records is exempt from this requirement pursuant to 5 U.S.C. 552a(k)(2) and TVA regulations at 18 CFR 1301.24.

RECORD ACCESS PROCEDURES:

This system of records is exempt from this requirement pursuant to 5 U.S.C. 552a(k)(2) and TVA regulations at 18 CFR 1301.24.

CONTESTING RECORD PROCEDURES:

This system of records is exempt from this requirement pursuant to 5 U.S.C. 552a(k)(2) and TVA regulations at 18 CFR 1301.24.

RECORD SOURCE CATEGORIES:

This system of records is exempt from this requirement pursuant to 5 U.S.C. 552a(k)(2) and TVA regulations at 18 CFR 1301.24.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempted from subsections (c)(3); (d); (e)(1); (4)(G), (4)(H), (4)(I); and (f) of 5 U.S.C. 552a (Section 3 of the Privacy Act of 1974) pursuant to 5 U.S.C. 552a(k)(2) and TVA regulations at 18 CFR 1301.24.

TVA-9**SYSTEM NAME:**

Health Records—TVA.

SYSTEM LOCATION:

TVA Corporate Health & Safety, Chattanooga, TN 37402-2801; all TVA

medical facilities; Computer Operations, TVA, Chattanooga, TN 37402-2801; National Personnel Records Center, St. Louis, MO 63118; District Offices, Office of Workers' Compensation Programs.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for TVA employment, employees, former employees, official visitors, contractual assignees to TVA, interns, externs, employees of TVA contractors, and other Federal agencies who are examined under contract.

CATEGORIES OF RECORDS IN THE SYSTEM:

Health information pertinent to an individual's employment, official visit, or contractual work with TVA or other Federal agencies, including the basic Clinical Medical Record, the Employee Assistance Program case files, Worker's Compensation and Rehabilitation claims and case files, Psychological and Fitness for Duty files including alcohol and drug testing information, clinical information received from outside sources, and information relative to an employee's claim for medical disability retirement. Health information includes paper documents, x-rays, microfiche, microfilm, and/or any automatic data processing media, regardless of the form or process by which it is maintained.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831-831dd; 5 U.S.C. 7902; Federal Employees' Compensation Act, 5 U.S.C. chapter 81, 5 U.S.C. chapter 87 (Medical information relating to life insurance program); 5 U.S.C. 3301; Occupational Safety and Health Act of 1970, Pub. L. 93-237, 87 Stat. 1024, Pub. L. 91-616, Federal Civilian Employee Alcoholism Program and Pub. L. 92-255, Drug Abuse Among Federal Civilian Employees, which are amended in regard to confidentiality of records by Pub. L. 93-282; Public health laws (State and Federal) related to the reporting of health hazards, communicable diseases or other epidemiological information; Energy Reorganization Act of 1974, Pub. L. 93-438, 88 Stat. 1233.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Compensation claim records are used for adjudicating claims and providing therapy. Appropriate information is exchanged with physicians, hospitals, and rehabilitation agencies approved by the Office of Workers' Compensation Programs for service to injured employees.

Clinical Medical Records are used for employee population health monitoring

which includes routine clinical and epidemiological investigations. Such studies may require the transfer of selected items of medical data to health-related agencies, organizations, or professionals for the purpose of obtaining specialized clinical consultation, compiling vital health statistics, or conducting biomedical investigations.

Alcohol and drug testing and employee assistance program records may be exchanged with a physician or treatment center working with an employee, or in accordance with the provisions of Pub. L. 93-282.

Information in the Health Records System provided to officials of other Federal agencies responsible for other Federal benefit programs administered by Office of Workers' Compensation Programs, Retired Military Pay Centers, Veterans' Administration, Social Security Administration, and private contractors engaged in providing benefits under Federal contracts.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating and prosecuting such violation, or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

To provide information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, the issuance of a security clearance, the reporting of an investigation of an employee, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

To respond to a request from a Member of Congress regarding an employee.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority or a court of competent jurisdiction.

To transfer information regarding claims for health insurance or disability benefits to the health insurance carrier or plan participant.

To request information from a Government agency or private individual, if necessary, to obtain

information relevant to a TVA decision within the purposes of this system of records.

To the parties or complainants, their representatives, and impartial referees, examiners, administrative judges, or other decision makers in proceedings under the TVA grievance adjustment procedures, Equal Employment Opportunity procedures, Merit Systems Protection Board, or similar procedures.

To TVA consultants, contractors, and subcontractors who are engaged in studies and evaluation of TVA's administration of its medical and employee benefits program or who are providing support sources to the program.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

To provide information to private physicians and other health care professionals or facilities designated by an employee.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Health information includes paper documents, x-rays, microfiche, microfilm, and/or any automatic data processing media, regardless of the form or process by which it is maintained.

RETRIEVABILITY:

Records are indexed by name, social security number, date of birth, and/or case number.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. All filing systems are locked when unattended.

Remote access facilities are secured through physical and system-based safeguards. Special instructions issued to medical staff employees assure the confidentiality of health records.

RETENTION AND DISPOSAL:

Records are maintained in accordance with TVA rules and regulations approved by the Archivist of the United States. Retention schedules specify the length of time various records are kept. Active clinical medical records are kept indefinitely. Specific retention schedules for various components of the records systems are contained in the Comprehensive Records Schedule (CRS) which has been approved by the National Archives and Records Administration (NARA) for use by Health Services. These dispositions are

mandatory unless TVA requests a revision from NARA. Items in this CRS should be cited as the disposition authority for transferring or destroying any records.

SYSTEM MANAGER(S) AND ADDRESS:

Senior Manager, TVA Corporate Health & Safety, Chattanooga, TN 37402-2801.

NOTIFICATION PROCEDURE:

Individuals should address inquiries to the system manager named above. Individuals should provide their full name, social security number, date of birth, employing organization, and date of last employment, and employee compensation case number, if any.

RECORD ACCESS PROCEDURES:

Individuals who desire access to information about them in this system of records should contact or address their inquiries to the system manager named above. Inquiries should be specific as to which component of the health records system is to be accessed. If inquiries are not specific to a particular component of the health records, it will be assumed the access is directed toward the individual's clinical medical record.

CONTESTING RECORDS PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

The individual to whom the record pertains; TVA medical staff; private physicians and medical institutions; Office of Workers' Compensation Programs; TVA personnel records; other health agencies and departments.

TVA-10

SYSTEM NAME:

Employee Statement of Employment and Financial Interests-TVA.

SYSTEM LOCATION:

Office of the General Counsel, TVA, Knoxville, TN 37902-1499. Original copies may be kept in line organization offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees in positions designated as requiring submission of a statement; every TVA consultant who was a "special Government employee"; every TVA personnel service contractor who was a "special Government employee" and who was determined to be an "expert" or who was otherwise required to submit a statement.

CATEGORIES OF RECORDS IN THE SYSTEM:

Statements of employment and financial interests filed prior to 1993. Statements filed in 1993 or after are maintained under Office of Government Ethics system OGE/GOVT-2, "Confidential Statements of Employment and Financial Interests." TVA-10 will be phased out when the records are destroyed in accordance with established retention schedules.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831-831dd; Executive Order 11222 and 12674; Ethics in Government Act of 1978.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating and prosecuting such violation, or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

To report as requested to the Office of Personnel Management pursuant to Executive Order 10577 and other laws.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Access to and use of these records are limited to those persons designated to review statements of financial interest.

RETENTION AND DISPOSAL:

Records are retained in accordance with established records retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Associate General Counsel and Designated Agency Ethics Official, Office of the General Counsel, TVA, Knoxville, TN 37902-1499.

NOTIFICATION PROCEDURE:

Individuals upon whom records are maintained in this system of records are aware of that fact by having filed a

statement. However, inquiries may be addressed to the Office of the General Counsel, TVA, Knoxville, TN 37902-1499. Requests should include the individual's full name and employing division.

RECORD ACCESS PROCEDURES:

Individuals wishing to gain access to information about them in this system of records should contact the Office of the General Counsel, TVA, Knoxville, TN 37902-1499.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the Office of the General Counsel, TVA, Knoxville, TN 37902-1499.

RECORD SOURCE CATEGORIES:

The individual to whom the record pertains.

TVA-11

SYSTEM NAME:

Payroll Records—TVA.

SYSTEM LOCATION:

Controller, TVA, Knoxville, TN 37902-1499; garnishment files are located at the Office of the General Counsel, TVA, Knoxville, TN 37902-1499; duplicate copies of some records may also be maintained in the files of the employing organization; National Personnel Records Center, St. Louis, MO 63118.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All employees and personal service contractors selected for certain training programs and applicants for employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal identifying information, pay, leave, and debt claim information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831-831dd; Internal Revenue Code; Fair Labor Standards Act, 29 U.S.C. Chapter 8; 5 U.S.C. Chapter 63.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To report earnings and other required information to Federal, State, and local taxing authorities as required by law.

To report earnings to the Civil Service Retirement System for members of that system.

To transmit payroll deduction information to financial institutions and employee organizations.

To report earnings to courts when garnishments are served or in bankruptcy or wage earner proceedings.

To report earnings to unions for those crafts on which TVA contributions to union welfare or pension funds are based on earnings. Reports of hours worked are made to unions for those crafts on which such TVA contributions are based on hours worked.

To report earnings to the Department of Housing and Urban Development, State welfare agencies, and State employment security offices where an individual has made a claim for benefit with such agency.

To the parties or complainants, their representatives, and impartial referees, examiners, administrative judges, or other decision makers in proceedings under the TVA grievance adjustment procedures, Equal Employment Opportunity procedures, Merit Systems Protection Board, or similar procedures.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating and prosecuting such violation, or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

To provide information or disclose to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

To provide information to multi-employer health and welfare and pension funds as reasonably necessary and appropriate for proper administration of the plan of benefits.

To disclose to any agency of the Federal Government having oversight or review authority with regard to TVA activities.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To transfer information necessary to support a claim for life insurance benefits under Federal Employee's Group Life Insurance to Office of

Federal Employee's Group Life Insurance.

To request information from a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information; and to request information from private individuals, if necessary, to obtain information relevant to a TVA decision concerning the hiring, retention, or promotion of an employee, the issuance of a security clearance, or other decision within the purposes of this system of records.

To transfer information regarding claims for health insurance benefits to health insurance carriers.

To TVA contractors and subcontractors engaged in studies and evaluations of TVA payroll and personnel management.

To union representatives exercising their responsibilities under TVA collective bargaining agreements.

To report earnings to the Department of Housing and Urban Development, and State welfare agencies where an individual makes a claim for benefits, and to report earnings to State employment security offices in both manual and automated form for use by these offices in determining unemployment benefits.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

To the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services Federal Parent Locator System (FPLS) and Federal Tax Offset System for use in locating individuals and identifying their income sources to establish paternity, establish and modify orders of support, and for enforcement action.

To the Office of Child Support Enforcement for release to the Social Security Administration for verifying social security numbers in connection with the operation of the FPLS by the Office of Child Support Enforcement.

To the Office of Child Support Enforcement for release to the Department of Treasury for purposes of administering the Earned Income Tax Credit Program (Section 32, Internal Revenue Code of 1986) and verifying a claim with respect to employment in a tax return.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to "consumer reporting

agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Debt Collection Act of 1982 (31 U.S.C. 3711(d)(4)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on automated data storage devices, hard-copy printouts, and in an optical scanned electronic file.

RETRIEVABILITY:

Records are primarily indexed by name. They may also be retrieved by reference to employing organization, date of end of pay period, social security or badge number, year of birth, or job title.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties require such access. Filing systems are locked when unattended. Remote access facilities are secured through physical and system-based safeguards.

RETENTION AND DISPOSAL:

Scanned information is stored on CD ROM and retained indefinitely. File folders are retained for 3 years after termination. Timesheets are retained for 7 years, payroll registers are retained in active status for 1 year, transferred to secured off-site storage facility for 5 years, and to National Personnel Records Center for an additional 50 years. Magnetic tapes processed by the Controller are retained for 2 years.

SYSTEM MANAGER(S) AND ADDRESS:

Controller, TVA, Knoxville, TN 37902-1499.

NOTIFICATION PROCEDURE:

Individuals wishing to learn if information on them is maintained in this system of records should address inquiries to the system manager named above. Requests should include the individual's full name, employing organization, and date of last employment. The social security number is also required to expedite TVA's response and prevent the erroneous retrieval of records for another individual with the same name.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information on them in this system of records should contact the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals seeking to contest or amend information on them in this

system of records should contact the system manager named above.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains; TVA personnel records; employee's supervisor for report of hours worked.

TVA-12

SYSTEM NAME:

Travel History Records—TVA.

SYSTEM LOCATION:

Travel and Benefits Accounting, Controller, TVA, Knoxville, TN 37902-1499. Duplicate copies of certain records may also be maintained in the files of the employing organization.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former TVA employees who traveled on official business and filed travel expense vouchers, applied for a travel advance, or transferred between official stations; recently-hired employees who filed for reimbursement of relocation expenses; candidates for TVA positions who filed for reimbursement of travel expenses; and contractors with which there is an employer/employee relationship (i.e., personal services contractors).

CATEGORIES OF RECORDS IN THE SYSTEM:

Travel advance requests, travel expense vouchers and supporting documentation, travel charge card program records and reports, and travel orders. Records supporting relocation expense claims also include Government Bills of Lading, real estate sales agreements and settlements, Federal Truth-In Lending disclosure statements, lease agreements, receipts for loss of rental deposit, and relocation income tax allowance documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831-831dd.; 5 U.S.C. 5701-5709, and related Federal travel regulations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule regulation, or order issued pursuant thereto.

In litigation to which TVA is a party or in which TVA provides legal

representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

To respond to a request from a Member of Congress regarding the status of an employee, former employee, or applicant.

To TVA contractors and subcontractors engaged at TVA's direction who are providing support services to TVA's travel charge card program.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Debt Collection Act of 1982 (31 U.S.C. 3711(d)(4)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on magnetic media, hard-copy printouts, microfiche, and in file folders.

RETRIEVABILITY:

Records are indexed by name and social security number.

SAFEGUARDING:

Access to and use of these records are limited to persons whose official duties require such access. Security will be provided by physical, administrative, and computer system safeguards. Files are kept in secured facilities not accessible to unauthorized individuals.

RETENTION AND DISPOSAL:

These records are retained in accordance with established TVA records retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Supervisor, Travel and Benefits Accounting, Controller, TVA, Knoxville, TN 37902-1499.

NOTIFICATION PROCEDURE:

Individuals wishing to know whether information about them is maintained in this system of records should address inquiries to the system manager named above. Requests should include the

individual's full name and social security number.

RECORD ACCESS PROCEDURES:

Individuals who seek access to information about them in this system of records should contact the system manager named above. Requests should include the individual's full name and social security number.

CONTENT/RECORD PROCEDURE:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above. Requests should include the individual's full name and social security number.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains; TVA disbursement voucher records; TVA application for travel advance; travel charge card program records and reports.

TVA-13

SYSTEM NAME:

Employment Applicant Files—TVA.

SYSTEM LOCATION:

Human Resources, Shared Resources and Human Resource Information System, TVA, Knoxville, TN 37902-1499; area and project human resources offices; Information Services, TVA, Chattanooga, TN 37402-2801.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for employment including former employees seeking reemployment and current employed college recruitment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Application forms, resumes, and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831-831dd; 5 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To respond to a request from a Member of Congress regarding the status of an individual's application.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating and prosecuting such violation, or charged with enforcing or implementing the statute, rule,

regulation, or order issued pursuant thereto.

To request from any pertinent source, directly or through a TVA contractor engaged at TVA's direction, information relevant to a TVA decision concerning the hiring of an employee, the issuance of a security clearance, or other decision within the purposes of this system or records.

To disclose test results to State employment services.

To provide information as requested to the Office of Personnel Management pursuant to Executive Orders 10450 and 10577 and other laws.

To provide information to a Federal agency in response to its request in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To the parties or complainants, their representatives, and impartial referees, examiners, administrative judges, or other decision makers in proceedings under the TVA grievance adjustment procedures, Equal Employment Opportunity procedures, Merit Systems Protection Board, or similar procedures.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on the Resumix automated data storage device.

RETRIEVABILITY:

Records are indexed by name and resume identification number.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. The Resumix system is secured by password. Remote access facilities are secured through physical and system-based safeguards.

RETENTION AND DISPOSAL:

Applications/resumes are kept for one year from last indication of interest, with the exception of apprenticeship applications, which are kept for five years.

SYSTEM MANAGER(S) AND ADDRESS:

Senior Vice President, Human Resources, TVA, Knoxville, TN 37902-1499.

NOTIFICATION PROCEDURE:

Individuals submitting applications for employment are accepted for processing into the Resumix System only when a vacancy has been identified. Unsolicited resumes/applications will receive a postcard acknowledgment which refers them to the jobline and TVA homepage for future information concerning current employment opportunities. Individuals wishing to learn if information on them is maintained in this system of records should address inquiries to Manager, Shared Resources, TVA, Knoxville, TN 37902-1499. Requests should include the individual's full name, social security number, date of birth, and approximate date of application.

RECORD ACCESS PROCEDURES:

Individuals wishing to gain access to information on them in this system of records should contact the Manager, Shared Resources, TVA, Knoxville, TN 37902-1499. Access will not be granted to investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment. Federal contracts, or access to classified information, to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence.

Access will not be granted to testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal Service the disclosure of which would compromise the objectivity or fairness of the testing or examination process.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to Manager, Shared Resources, TVA, Knoxville, TN 37902-1499.

RECORD SOURCE CATEGORIES:

The individual on whom the record is maintained; educational institutions; employers, and other references; State employment services.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from subsections (d); (e)(4)(H); and (f)(2), (3), and (4) of 5 U.S.C. 552a (section 3 of the Privacy Act of 1974) to the extent that disclosure of material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence and to the extent that disclosure of testing or examination material would compromise the objectivity or fairness of the testing or examination process. This exemption is pursuant to 5 U.S.C. 552a(k) (5) and (6) and TVA regulations at 18 CFR 1301.24.

TVA-14

SYSTEM NAME:

Grievance Records—TVA.

SYSTEM LOCATION:

Labor Relations Staff, TVA, Knoxville, TN 37902-1499.

Original correspondence on the initial grievance steps below the Labor Relations level is maintained in the organization in which the grievance originated. Original correspondence on grievance appeals to the corporate level are maintained in the files of the Labor Relations office.

Duplicate copies of such correspondence are also maintained in the files of the organization concerned with the grievance.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

TVA employees and former employees who have formally appealed to TVA for adjustment of their grievances.

CATEGORIES OF RECORDS IN THE SYSTEM:

Evidence and arguments relevant to the matter giving rise to the grievance and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831-831dd.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To respond to a request from a Member of Congress regarding the status of an employee's grievance.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To the parties or complainants, their representatives, and impartial referees, examiners, administrative judges, or other decision makers in proceedings under the TVA grievance adjustment procedures, Equal Employment Opportunity procedures, Merit Systems Protection Board, or similar procedures.

To request information from a Federal, State, or local agency, or private individual, if necessary, to obtain information relevant to a TVA decision within the purposes of this system of records.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating and prosecuting such violation, or charged with enforcing or implementing the statute, rule, regulations, or order issued pursuant thereto.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on automated data storage devices in some organizations and in file folders.

RETRIEVABILITY:

Records are indexed by name or by craft.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Records are maintained in accordance with established TVA record retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Senior Vice President, Labor Relations, TVA, Knoxville, TN 37902-1499.

NOTIFICATION PROCEDURE:

Individuals who have filed grievances are aware of that fact. Inquiries may,

however, be addressed to the system manager named above. Requests should include the individual's full name, craft, and location of employment.

RECORD ACCESS PROCEDURES:

Individuals who have filed a grievance may gain access to the official copy of the grievance record by contacting the system manager named above. Requests should include the grievant's full name, craft, and location of employment.

CONTESTING RECORD PROCEDURES:

The contest, amendment, or correction of a grievance record is permitted during the prosecution of that grievance. However, an individual may address requests for amendment or correction of items not involved in prosecution of the grievance to the system manager named above.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains; TVA personnel records; statements and testimony of witnesses and related correspondence.

TVA-15

SYSTEM NAME:

LAND BETWEEN THE LAKES
HUNTER Records—TVA.

SYSTEM LOCATION:

Land between the Lakes, TVA, Golden Pond, Kentucky 42211-9001; Computer Operations, TVA, Chattanooga, TN 37402-2801.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals to whom hunter use permits are issued and those who apply for participation in managed hunts at LAND BETWEEN THE LAKES.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal identifying information, State hunting license(s) number(s), and information related to the hunts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831-831dd; Executive Order 6161.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To respond to a request from a Member of Congress regarding the status of an applicant.

To request information from a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as licenses, or to request information from

a private individual to the extent necessary to obtain information relevant to a TVA decision concerning the issuance of a permit to hunt or any other privilege.

To provide hunt information to State agencies concerned with wildlife management practices.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency whether Federal, State, or local, charged with the responsibility of investigating and prosecuting such violation, or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

To provide mailing lists to organizations or contractors cooperating with LAND BETWEEN THE LAKES in activities or events for the purpose of publicizing those activities or events.

To provide mailing lists to an independent LAND BETWEEN THE LAKES support organization for the purpose of soliciting members for the organization.

To provide mailing lists to nonprofit conservation organizations, having missions related to that of LAND BETWEEN THE LAKES, for the purpose of soliciting membership in such organizations.

To provide mailing lists to students or faculty of educational institutions for the purposes of research.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on automated data storage devices, card files, and computer printouts.

RETRIEVABILITY:

Records are indexed by name; automated files may be retrieved by any key data element.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official

duties require such access. Files are kept in secured facilities.

RETENTION AND DISPOSAL:

Applications for managed hunts are maintained for one year; carbon copies of hunter use permits are maintained two years; and automated records on those permits are maintained five years. Other information may be retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Manager of LAND BETWEEN THE LAKES, TVA, Golden Pond, KY 42211-9001.

NOTIFICATION PROCEDURE:

Individuals wishing to know whether information about them is maintained in this system of records should address their inquiries to the system manager named above. Requests should include the name as listed on the application or hunter use permit or the hunter use permit number.

RECORD ACCESS PROCEDURE:

All information maintained in this system of records has normally been supplied by the subject individual. However, requests for access may be directed to the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained.

TVA-18

SYSTEM NAME:

Employee Supplementary Vacancy Announcement Records—TVA.

SYSTEM LOCATION:

Human Resource officers throughout TVA that issue or receive response to supplementary vacancy announcements will maintain records in their respective offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees applying for placement in positions covered by the supplementary vacancy announcement procedure.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications and supporting material submitted by employee.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831-831dd; Executive

Order 11478; Equal Employment Opportunity Act of 1972, Pub. L. 92-261, 86 Stat. 103; 5 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES AND USERS AND THE PURPOSES OF SUCH USES:

To the parties or complainants, their representatives, and impartial referees, examiners, administrative judges, or other decision makers in proceedings under the TVA grievance adjustment procedures, Equal Employment Opportunity procedures, Merit Systems Protection Board, or similar procedures.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

INDEXING:

Records are indexed by name.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties require such access. Records are maintained in secured facilities.

RETENTION AND DISPOSAL:

Records are disposed of in accordance with established TVA records retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Senior Vice President, Human Resources, TVA, Knoxville, TN 37902-1499.

NOTIFICATION PROCEDURE:

Individuals upon whom records are maintained in this system are aware of that fact through filing an application. However, inquiries may be addressed to the name and address to which application was submitted. Requests should include the individual's full name, position applied for, and location of job.

RECORD ACCESS PROCEDURES:

Individuals upon whom records are maintained in this system have supplied all information in this system. However, requests for access may be addressed to the name and address to which application was submitted.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the name and address to which application was submitted.

RECORD SOURCE CATEGORIES:

The individual upon whom the record is maintained.

TVA-19

SYSTEM NAME:

Consultant and Personal Service Contractor Records—TVA.

SYSTEM LOCATION:

Human Resources and Information Services and Personnel History Records, TVA, Knoxville, TN 37902-1499; Procurement, TVA, Chattanooga, TN 37402-2801; Computer Operations, TVA, Chattanooga, TN 37402-2801; and TVA user organizations.

Payment records are located at these TVA Controller offices: Knoxville, TN 37902-1499; Chattanooga, TN 37402-2801; and Muscle Shoals, AL 35660-1010.

Records related to personal service contractors employed under the Comprehensive Employment and Training Act of 1973, Pub. L. 93-203, are located at the National Personnel Records Center, St. Louis, MO 63118.

Records on individuals who provide services under a TVA contract with an organization are kept in the files of that organization.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who provide services to TVA; participants in TVA-State employment programs; individuals who provide services under a TVA contract with an organization; and participants in other special employment programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Each organization maintains its contracts, records of the qualifications, performance, and evaluation of the contractor, and related correspondence. For public service employment program participants, Human Resources maintains information related to job placement such as test scores, interest inventories, and supervisor's evaluations. Payment information is maintained by the Controller.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831-831dd; Comprehensive Employment and Training Act, Pub. L. 93-203, 87 Stat. 839; Executive Order 11222; Executive Order 10450; Executive Order 10577;

provisions of 5 U.S.C. applicable to employment with TVA; Internal Revenue Code.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To transmit reports as requested to the Office of Personnel Management, pursuant to 5 U.S.C. 3323, Executive Orders 10577 and 10450, and other laws.

To report earnings information to the Internal Revenue Service and the Social Security Administration.

To respond to a request from a Member of Congress regarding the status of a contractor or consultant.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating and prosecuting such violation, or charged with enforcing or implementing the statute, rule, regulations, or order issued pursuant thereto.

To request information from a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information; and to request information from private individuals if necessary to obtain information relevant to a TVA decision concerning the hiring, retention, or promotion of an employee, the issuance of a security clearance, or other decision within the purposes of this system of records.

To transmit to the appropriate State contracting agency reports of hours worked by participants in the public service employment program, and to request reimbursement.

To provide information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

To provide the following information to a prospective employer of a TVA or former TVA consultant or personal service contractor: Job descriptions, dates of employment, and reason for separation.

To the parties or complainants, their representatives, and impartial referees, examiners, administrative judges, or other decision makers in proceedings under the TVA grievance adjustment procedures, Equal Employment Opportunity procedures, Merit Systems Protection Board, or similar procedures.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and on automated data storage devices.

RETRIEVABILITY:

Records are indexed by name, social security number, or contract number.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties require such access. All filing systems are locked when unattended.

RETENTION AND DISPOSAL:

Records are maintained in accordance with established TVA record retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Senior Vice President, Human Resources, TVA, Knoxville, TN 37902-1499.

NOTIFICATION PROCEDURE:

Individuals wishing to know if records on them are maintained in the system should address inquiries to the system manager named above. Requests shall include the individual's full name, employing or contracting organization, and whether the individual was a participant in the public service employment program. Social security numbers are not required but may expedite TVA's response.

RECORD ACCESS PROCEDURES:

Individuals wishing to gain access to information on them in this system of records should contact the system manager named above. Access will not be granted to investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information, to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the

Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. Access will not be granted to testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal Service, the disclosure of which would compromise the objectivity or fairness of the testing or examination process.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains; educational institutions, former employers, and other reference sources; State employment services; supervisors and other TVA personnel or personnel records; medical officers; other Federal agencies.

In addition to the above sources, security/suitability investigatory files contain information from law enforcement agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from subsections (d); (e)(4)(H); (f)(2), (3), and (4) of 5 U.S.C. 552a (section 3 of the Privacy Act of 1974) to the extent that disclosure of material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence, and to the extent that disclosure of testing or examination material would compromise the objectivity of fairness of the testing or examination process. This exemption is pursuant to 5 U.S.C. 552a(k) (5) and (6) and TVA regulations at 18 CFR 1301.24.

TVA-21

SYSTEM NAME:

Nuclear Assurance Personnel Records-TVA.

SYSTEM LOCATION:

Nuclear Assurance, TVA, Chattanooga, TN 37402-2801.

Copies of records for Quality Assurance personnel are maintained for the General Manager, Nuclear Assurance in the Enterprise Document Management System.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees, former employees, or contractors involved in quality assurance work.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information related to the qualifications of employees or contractors.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831-831dd; Energy Reorganization Act of 1974, Pub. L. 93-438, 88 Stat. 1233 as implemented at Nuclear Regulatory Commission Regulatory Guides 1.58 and 1.146.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the Nuclear Regulatory Commission or its authorized representatives for inspection or evaluation of TVA Quality Assurance procedures.

To respond to a request from a Member of Congress regarding the status of an employee.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigation and prosecuting such violation, or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

To request information from a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information; and to request information from private individuals if necessary to obtain information relevant to a TVA decision concerning the hiring, retention, or promotion of an employee, the issuance of a security clearance, or other decision within the purposes of this system of records.

To provide information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of

discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To the parties or complainants, their representatives, and impartial referees, examiners, administrative judges, or other decision makers in proceedings under the TVA grievance adjustment procedures, Equal Employment Opportunity procedures, Merit Systems Protection Board, or similar procedures.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Records are maintained in electronic files.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. All filing systems are locked when unattended.

RETENTION AND DISPOSAL:

Records are disposed of in accordance with established TVA records retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

General Manager, Nuclear Assurance, TVA, Chattanooga, TN 37402-2801.

NOTIFICATION PROCEDURE:

Individuals wishing to know whether information about them is maintained in this system of records should address inquiries to the system manager named above. Inquiries should include the individual's full name and employing organization.

RECORD ACCESS PROCEDURE:

Individuals who desire access to information about them in this system of records should contact the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

The individual on whom the record is maintained; TVA personnel records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system of records is exempt from subsection (d); (e)(4)(H); (f)(2), (3), and (4) of 5 U.S.C. 552a (section 3 of the Privacy Act of 1974) to the extent that disclosure of material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. The exemption is pursuant to 5 U.S.C. 552a(k)(5) and TVA regulations at 18 CFR 1301.24.

TVA-22**SYSTEM NAME:**

Questionnaire-Land Use Surveys in Vicinity of Proposed or Licensed Nuclear Power Plant-TVA.

SYSTEM LOCATION:

Environmental Radiological Monitoring and Instrumentation, Radiological and Chemistry Services, Engineering and Technical Services, TVA, Muscle Shoals, AL 35662-1010.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals from whom TVA purchases land for proposed nuclear plant sites, individuals having vegetable gardens, irrigated land, dairy cows, and milk goats within a five-mile radius of a proposed or licensed plant site.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal identifying information and information related to agriculture, milk consumption, water resources, and farm product value.

This information is not used for making determinations about the rights, benefits, or privileges of any individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831-831dd; National Environmental Policy Act, Pub. L. 91-190, 83 Stat. 852; Energy Reorganization Act of 1974, Pub. L. 93-438, 88 Stat. 1233.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in this system of records is used in developing environmental evaluations and impact statements. Certain relevant but nonsensitive information may be disclosed in these statements. Information may also be used:

In administrative and licensing proceedings including the presentation

of evidence and disclosure to opposing counsel in the course of discovery.

To disclose to any agency of the Federal Government having oversight or review authority with regards to TVA activities.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on automated data storage devices, microfilm, microfiche, and in file folders

RETRIEVABILITY:

Records are indexed by assigned number and aerial photo number and/or name of survey participant, plant site and year of survey.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties require such access. Security is provided by physical, administrative and computer system safeguards. Files are kept in secured facilities not accessible to unauthorized individuals or are locked when unattended.

RETENTION AND DISPOSAL:

These records are retained in accordance with established TVA records retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Vice President, Environmental Radiological Monitoring and Instrumentation, TVA, Muscle Shoals, AL 35662-1010.

NOTIFICATION PROCEDURE:

Individuals on whom information is maintained in this system are aware of that fact through response to the questionnaire. However, inquiries may be addressed to the system manager named above. Requests should include the individual's full name, address, and approximate date of survey.

RECORD ACCESS PROCEDURES:

Individuals who desire access to information about them in this system of records should contact the system manager named above. Requests should include the individual's full name, address, and approximate date of survey.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

Individuals to whom the record pertains: the nearest resident, to a distance of 5 miles, in each of the 16 compass sectors around each TVA nuclear site; farms with dairy cows or milk goats within a five mile radius of each site and additional dairy farms used as control locations for environmental monitoring; and individuals within a five mile radius of each site with home gardens meeting the survey criteria.

TVA-23

SYSTEM NAME:

Radiation Dosimetry Personnel Monitoring Records—TVA.

SYSTEM LOCATION:

Radiological Control Department, TVA, Chattanooga, TN 37402-2801.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees, former employees, and visitors who might be exposed or are exposed to radiation while in TVA installations.

CATEGORIES OF RECORDS COVERED BY THE SYSTEM:

Information on the magnitude of exposure at TVA installations, exposure prior to employment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831-831dd; Energy Reorganization Act of 1974, Pub. L. 93-438, 88 Stat. 1233; 10 CFR parts 19, 20.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the Nuclear Regulatory Commission for its use in evaluating TVA radiological control measures.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To the parties or complainants, their representatives, and impartial referees, examiners, administrative judges, or other decision makers in proceedings under the TVA grievance adjustment

procedures, Equal Employment Opportunity procedures, Merit Systems Protection Board, or similar procedures.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

Radiation dosimetry records may be used for employee population health monitoring which includes routine clinical and epidemiological investigations. Such studies may require the transfer of selected items of radiation dosimetry data to health-related agencies, organizations, or professionals for the purpose of compiling vital health statistics, or conducting biomedical investigations.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on automated data storage devices, microfilm, microfiche, and in file folders.

RETRIEVABILITY:

Records are indexed by individual name and social security number.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties require such access. Security is provided by physical, administrative and computer system safeguards. Files are kept in secured facilities not accessible to unauthorized individuals or are locked when unattended.

RETENTION AND DISPOSAL:

These records are retained in accordance with established TVA records retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Program Manager, Radiological and Chemistry Services, TVA, Chattanooga, TN 37402-2801.

NOTIFICATION PROCEDURE:

Individuals should address inquiries to the system manager named above, or if a current employee, to the Radiological Control office at the TVA facility where employed. Requests should include the individual's full name, social security number and date of birth.

RECORD ACCESS PROCEDURES:

Individuals who desire access to information about them in this system of records should contact the system manager named above, or if a current employee, to the Radiological Control office at the TVA facility where employed. Requests should include the

individual's full name, social security number and date of birth.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the subject individual; previous licensees where the individual was monitored for radiation exposure; and TVA personnel conducting radiation monitoring programs.

TVA-26

SYSTEM NAME:

Retirement System Records—TVA.

SYSTEM LOCATION:

Retirement Services, TVA, 400 W. Summit Hill Drive, Knoxville, TN 37902-1499.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active, retired, and former members of the TVA Retirement System; TVA employees and former employees who are members of the Civil Service Retirement System and the Federal Employees Retirement System; designated beneficiaries.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal identifying information; retirement, benefit, and investment information; related correspondence; and legal documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831-831dd; Internal Revenue Code.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To report earnings to the Internal Revenue Service.

To disclose information to actuarial firms for valuation and projecting benefits.

To disclose information to the Medical Board of the TVA Retirement System for determinations related to disability retirement.

To certify insurance status to the Office of Personnel Management and the Office of Federal Employees' Group Life Insurance.

To respond to a request from a Member of Congress regarding the status of a system member.

To disclose information to auditing firms for use in auditing benefit calculations and financial statements.

To request information from a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information; and to request information from private individuals, if necessary, to obtain information relevant to a TVA decision within the purpose of this system of records.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating and prosecuting such violation, or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

To provide information to a Federal agency, in response to its request, in connection with the issuance of any benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To provide the TVA Retirees Association with names and mailing addresses of other retired members and retired employees.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

To Contractors and subcontractors of TVA or the Retirement System who are provided records maintenance or other similar support service to the Retirement System.

Retirement records may be used for employee population health monitoring which includes routine clinical and epidemiological investigations. Such studies may require the transfer of selected items to health-related agencies, organizations, or professionals for the purpose of compiling vital health statistics, or conducting biomedical investigations.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in a computerized magnetic disk system and in file folders.

RETRIEVABILITY:

Records are indexed by name and social security number.

SAFEGUARDS:

Access to and use of the computerized magnetic disk system requires security access codes and are limited to those persons whose official duties require such access. Files are kept in secured facilities.

RETENTION AND DISPOSAL:

Records in the magnetic disk system and files are scheduled for disposal in accordance with an approved TVA retention schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Retirement Services, TVA, 400 W. Summit Hill Drive, Knoxville, TN 37902-1499.

NOTIFICATION PROCEDURE:

Individuals wishing to know whether information about them is maintained in this system of records should address inquiries to the system manager named above. Inquiries should include the individual's full name, date of birth, and social security number.

RECORD ACCESS PROCEDURES:

Individuals who desire access to information about them in this system of records should contact the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained on them in this system should address inquiries to the system manager named above.

RECORD SOURCE CATEGORIES:

The individual on whom the record is maintained; TVA personnel and payroll records.

TVA-28

SYSTEM NAME:

Woodland Resource Analysis Program Input Data—TVA.

SYSTEM LOCATION:

Secured off-site storage facility.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Private landowners, agencies, and corporations owning woodlands in Valley region and participating in TVA

woodland resource management demonstration program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal, financial, and land resource information pertinent to woodland resource planning. The information in this system is not used by TVA in the determination about the rights, benefits, or privileges of the individual

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831-831dd; Executive Order 6161.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Evaluated information is supplied to State forestry personnel for use in assisting the landowner.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on microfiche.

RETRIEVABILITY:

Records are indexed by State.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Files are kept in secured facilities.

RETENTION AND DISPOSAL:

Records are retained for 25 years.

SYSTEM MANAGER(S) AND ADDRESS:

Vice President, Resource Stewardship, TVA, Norris, TN 37828.

NOTIFICATION PROCEDURE:

Individuals on whom information is maintained are aware of that fact through participation in the program. However, inquiries may be addressed to the system manager named above. Individuals should provide their full name, State of residence, and the calendar year(s) of participation in the program.

RECORD ACCESS PROCEDURE:

Individuals on whom records are maintained have been provided copies of all information in that record. However, requests for access may be directed to the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

The individual to whom the record pertains provides the information to State forestry personnel. The information is evaluated by TVA and returned to the State forestry personnel who utilize the information in evaluated form to assist the landowner.

TVA-29

SYSTEM NAME:

Electricity Use, Rate, and Service Study Records—TVA.

SYSTEM LOCATION:

TVA Customer Service & Marketing, Pricing, PO Box 292409, HRI-2P, Nashville, TN 37229-2409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals residing in households which are participating in electricity use, rate, and service studies including those receiving electricity conservation assistance.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information about an individual's income; employment; family size; characteristics of his dwelling, including type of heating and cooling systems and number and kind of appliances; and other characteristics of study participants relevant to patterns of residential electrical use.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831-831dd.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To distributors and contractors assisting TVA in the study.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and in locked file cabinets.

RETRIEVABILITY:

Records are indexed by an identification number assigned to each household.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. All filing systems are locked when unattended.

RETENTION AND DISPOSAL:

Survey information will be retained until completion of the program and for seven years thereafter.

SYSTEM MANAGER(S) AND ADDRESS:

Senior Manager of Pricing, TVA, PO Box 292409 HRI-2P, Nashville, TN 37229-2409.

NOTIFICATION PROCEDURE:

Individuals about whom information is maintained in this system of records are aware of that fact through participation in the program. However, inquiries may be addressed to the system manager named above. Request should include the individual's full name and address.

RECORD ACCESS PROCEDURES:

Requests for access may be directed to the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORDS SOURCE CATEGORIES:

The information in this system is solicited from the individual to whom the record pertains.

TVA-30

SYSTEM NAME:

LAND BETWEEN THE LAKES Mailing Lists—TVA.

SYSTEM LOCATION:

LAND BETWEEN THE LAKES, TVA, Golden Pond, KY 42211-9001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons using, visiting, or having an interest in the activities, programs, or facilities of LAND BETWEEN THE LAKES.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal identifying information, address, and information about their LAND BETWEEN THE LAKES associated interests, activities, or program participation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831-831dd; Executive Order No. 6161.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To provide mailing lists to organizations or TVA contractors cooperating with LAND BETWEEN THE LAKES in activities or events for the purpose of publicizing activities or events.

To provide mailing lists to an independent LAND BETWEEN THE LAKES support organization for the purposes of soliciting members for the organization.

To provide mailing lists to nonprofit conservation organizations, having missions related to that of LAND BETWEEN THE LAKES, for the purpose of soliciting memberships in such organizations.

To provide mailing lists to students or faculty of educational institutions for the purposes of research.

To provide mailing lists to participants in LAND BETWEEN THE LAKES Leadership Training programs for the purpose of facilitating communication among participants.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on card files, automated data storage devices, and computer printouts.

RETRIEVABILITY:

Records are primarily indexed by name and identification code. They may also be retrieved by reference to interests, organization, or address elements.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties require such access. Files are kept in secured facilities. Access facilities are secured through physical administrative, and system-based safeguards.

RETENTION AND DISPOSAL:

Records are kept for the period of time the individual is to receive mailings.

SYSTEM MANAGER(S) AND ADDRESS:

Manager of LAND BETWEEN THE LAKES, TVA, Golden Pond, KY 42211-9001.

NOTIFICATION PROCEDURE:

Individuals wishing to know whether information about them is maintained in this system of records should address their inquiries to the system manager named above. Request should include the individual's full name and address.

RECORD ACCESS PROCEDURES:

Individuals seeking to gain access to information about them in this system of records should contact the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their requests to the system manager named above.

RECORD SOURCE CATEGORIES:

Individuals on whom records are maintained, organization representatives, and TVA employees.

TVA-31

SYSTEM NAME:

OIG Investigative Records—TVA.

SYSTEM LOCATION:

Office of the Inspector General, TVA, Knoxville, TN 37902-1499. Duplicate copies of certain documents may also be located in the files of other offices and divisions.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals and entities who are or have been the subjects of investigations by the Office of the Inspector General (OIG), or who provide information in connection with such investigations, including but not limited to: Employees; former employees; current or former contractors and subcontractors and their employees; consultants; and other individuals and entities which have or are seeking to obtain business or other relations with TVA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information relating to investigations, including information provided by known or anonymous complainants; information provided by the subjects of investigations; information provided by individuals or entities with whom the subjects are associated (e.g., coworkers, business associates, relatives); information provided by Federal, State, or local investigatory, law enforcement, or other Government or non-Government agencies; information provided by witnesses and confidential sources; information from public source materials; information from commercial data bases or information resources; investigative notes; summaries of telephone calls; correspondence; investigative reports or prosecutive referrals; and information about referrals for criminal prosecutions, civil proceedings, and administrative actions taken with respect to the subjects.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933. 16 U.S.C. 831-831dd; Executive Order 10450; Executive Order 11222; Hatch Act. 5 U.S.C. 7324-7327; 28 U.S.C. 535; Proposed Plan for the Creation, Structure, Authority, and Function of the Office of Inspector General, Tennessee Valley Authority, approved by the TVA Board of Directors on October 18, 1985; TVA Code XIII INSPECTOR GENERAL, approved by the TVA Board of Directors on February 19, 1987; and Inspector General Act Amendments of 1988. Pub. L. 100-504. 102 Stat. 2515.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To refer, where there is an indication of a violation of statute, regulation, order, or similar requirement, whether criminal, civil, or regulatory in nature, to the appropriate entity, including Federal, State, or local agencies or other entities charged with enforcement, investigative, or oversight responsibility.

To provide information to a Federal, State, or local entity (1) in connection with the hiring or retention of an individual, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting entity to the extent that the information is relevant to a decision on such matters, or (2) in connection with any other matter properly within the jurisdiction of such other entity and related to its prosecutive, investigatory, regulatory, administrative, or other responsibilities.

To the appropriate entity, whether Federal, State, or local, in connection with its oversight or review responsibilities or authorized law enforcement activities.

To respond to a request from a Member of Congress regarding an individual, or to report to a Member on the results of investigations, audits, or other activities of OIG.

To the parties or complainants, their representatives, and impartial referees, examiners, administrative judges, or other decision makers in proceedings under the TVA grievance adjustment procedures, Equal Employment Opportunity procedures, Merit Systems Protection Board, or similar procedures.

To the subjects of an investigation and their representatives in the course of a TVA investigation of misconduct; to any other person or entity that has or may have information relevant to the investigation to the extent necessary to assist in the conduct of the investigation, such as to request information.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To a consultant, private firm, or individual who contracts or subcontracts with TVA, to the extent necessary to the performance of the contract.

To request information from a Federal, State, or local agency maintaining civil, criminal, or other relevant or potentially relevant information; and to request information from private individuals or entities, if necessary, to acquire information pertinent to the hiring, retention, or promotion of an employee; the issuance of a security clearance; the conduct of a background or other investigation; or other matter within the purposes of this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on automated data storage devices, hard-copy printouts, and in file folders.

RETRIEVABILITY:

Records are indexed and retrieved by individual name or case file number.

SAFEGUARDS:

Access to and use of records is limited to authorized staff in OIG and to other authorized officials and employees of TVA on a need-to-know basis as determined by OIG management. Security will be provided by physical, administrative, and computer system safeguards. Files will be kept in secured facilities not accessible to unauthorized individuals.

RETENTION AND DISPOSAL:

Records are maintained in accordance with established TVA record retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Inspector General, TVA, Knoxville, TN 37902-1499.

NOTIFICATION PROCEDURE:

This system of records is exempt from this requirement pursuant to 5 U.S.C. 552a(k)(2) and TVA regulations at 18 CFR 1301.24.

RECORD ACCESS PROCEDURES:

This system of records is exempt from this requirement pursuant to 5 U.S.C.

552a(k)(2) and TVA regulations at 18 CFR 1301.24.

CONTESTING RECORD PROCEDURES:

This system of records is exempt from this requirement pursuant to 5 U.S.C. 552a(k)(2) and TVA regulations at 18 CFR 1301.24.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from subsections (c)(3); (d); (e)(1); (4)(G); (4)(H); and (4)(I); and (f) of 5 U.S.C. 552a (section 3 of the Privacy Act of 1974) pursuant to 5 U.S.C. 552a(k)(2) and TVA regulations at 18 CFR 1301.24.

TVA-32

SYSTEM NAME:

Call Detail Records-TVA.

SYSTEM LOCATION:

Data Center, TVA, Chattanooga, TN 37402-2801.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

TVA employees, contractor personnel, and other individuals who make telephone calls from or charge telephone calls to TVA telephones.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records relating to use of TVA telephones, records relating to long distance telephone calls charged to TVA; records indicating assignment of telephone numbers and authorization numbers; records relating to locations of TVA telephones.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831-831dd.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To respond to a request from a Member of Congress regarding an individual.

To provide to the appropriate entity, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To refer, where there is an indication of a violation of statute, regulation, order, or similar requirement, whether

criminal, civil, or regulatory in nature, to the appropriate entity, including Federal, State, or local agencies, or other entities charged with enforcement, investigative, or oversight responsibility.

To provide information to a Federal agency, in response to its request, in connection with the hiring or retention of an individual, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant to the requesting agency's decision on that matter.

To the parties or complainants, their representatives, and impartial referees, examiners, administrative judges, or other decision makers in proceedings under the TVA grievance adjustment procedures, Equal Employment Opportunity procedures, Merit Systems Protection Board, or similar procedures.

To a telecommunications company as well as to other TVA contractors providing telecommunications support to permit servicing the account.

To TVA contractors engaged at TVA's direction in investigations of abuse of TVA telephone service or other related issues.

To TVA contractors and contractor personnel to determine individual responsibility for telephone calls.

To TVA contractors in connection with amounts due TVA for telecommunications services provided to them.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and on automated data storage devices.

RETRIEVABILITY:

Records are retrieved by name, authorization number, or telephone number.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties require such access. Files are kept in secured facilities. Automated data is secured through physical and system-based safeguards.

RETENTION AND DISPOSAL:

These records are retained in accordance with established TVA records retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Network Services, TVA, Chattanooga, TN 37402-2801

NOTIFICATION PROCEDURE:

Individuals wishing to learn if information on them is maintained in

this system of records should address inquiries to the system manager named above. Requests should include the individual's full name, employing division, job title, and official TVA telephone number and authorization number.

RECORD ACCESS PROCEDURES:

Individuals seeking to gain access to information about them in this system of records should contact the system manager named above. Requests should include the individual's full name, employing division, job title, and official TVA telephone number and authorization number.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

TVA Telecommunication Control System; telecommunications companies with which TVA contracts for telephone service; telephone and authorization number assignment records; results of administrative inquiries relating to assignment of responsibility for placement of specific long distance calls.

TVA-34

SYSTEM NAME:

Project/Tract Files—TVA.

SYSTEM LOCATION:

Realty Administration, TVA, Chattanooga, TN 37402-2801, and secured off-site storage facility.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals or business entities from/to whom TVA is in the process of or has (1) acquired, transferred, or sold land or landrights, (2) made payment for construction, maintenance, or other damage to real property, or (3) made payment for relocation assistance. A project/tract file may name more than one individual and/or business entity involved in a transaction. (The system records that pertain to individuals and reflect personal information are subject to the Privacy Act. Noncovered records include public information and records on corporations and other business entities.)

CATEGORIES OF RECORDS IN THE SYSTEM:

Maps, property descriptions, appraisal reports, and title documents on real property; reports on contracts and transaction progress; contracts and options; records of investigations,

claims, and/or payments related to land transactions, damage restitution, and relocation assistance; related correspondence and reports

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831-831dd; Pub. L. 87-852, 76 Stat. 1129; Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To respond to a request from a Member of Congress regarding an individual.

To lienholders as necessary to secure subordinations or releases of liens or to protect lienholders rights.

To county clerk and register of deeds offices to document and put on record the title acquired by TVA.

To landowners, prospective landowners, claimants, or trespassers to establish or cure titles, to resolve encroachments, to resolve boundary disputes, or to resolve questions about easement rights or the application of Section 26a of the TVA Act 16 U.S.C. 831y-1.

To contractors to secure appraisals and title abstracts.

To request information from a Federal, State, or local agency or from private individuals, as necessary, to obtain information relevant to a TVA decision to acquire or dispose of property or to pay claims or make payments related to land transactions, damage restitution, and relocation assistance.

To refer, where there is an indication of a violation of statute, regulation, order, or similar requirement, whether criminal, civil, or regulatory in nature, to the appropriate entity, including Federal, State, or local agencies, or other entities charged with enforcement, investigative, or oversight responsibility.

To provide information to a Federal agency, in response to its request, in connection with the hiring or retention of an individual, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant to the requesting agency's decision on that matter.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to

respond to process issued under color of authority of a court of competent jurisdiction.

To provide to the appropriate entity, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

To report any required information to Federal, State, and local taxing authorities as required by law.

To genealogical researchers, relevant portions of maps, descriptions, appraisals, and title documents on real property, after 20 years, to establish historical records.

To archaeological researchers, relevant portions of maps, descriptions, appraisals, and title documents on real property, after 20 years, to reconstruct historical settings.

To respond to a request from a Member of Congress regarding the status of a matter relating to a specific project or tract.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on registers, index and aperture cards, microfilm, in file folders, and/or on automated data storage devices.

RETRIEVABILITY:

Records are primarily indexed by tract number and project symbol. Records may also be retrieved by cross-index reference to individual and business entity names.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties require such access. Files are kept in secured facilities. Remote access facilities are secured through physical and system-based safeguards.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with established TVA record retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Realty Administration, TVA, 1101 Market Street, EB 4A, Chattanooga, TN 37402-2801.

NOTIFICATION PROCEDURE:

Individuals wishing to know whether information about them is maintained in this system of records should address inquiries to the system manager named above. Requests should include the individual's full name and, to the extent known, any project/tract identifying information such as the project name, tract number, address, or related data.

RECORD ACCESS PROCEDURES:

Individuals seeking to gain access to information about them in this system of records should contact the system manager named above. Requests should include the individual's full name, and to the extent known, any project/tract identifying information such as project name, tract number, address, or related data. Access will be granted only to individually segregable personal information about the requester and to segregable nonpersonal information in accordance with TVA regulations on release of records relating to negotiations in progress involving contracts or agreements for the acquisition or disposal of real or personal property by TVA prior to the conclusion of such negotiations.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their requests to the system manager named above.

RECORD SOURCE CATEGORIES:

Public records and directories, landowners, tenants, and other individuals and business entities (including financial institutions) having an interest in or knowledge related to land ownership, appraisal, or title history; TVA personnel and contractors including independent appraisers and commercial title companies.

TVA-36**SYSTEM NAME:**

Section 26a Permit Application Records—TVA.

SYSTEM LOCATION:

For applications involving private facilities located on TVA reservoirs, such as bathhouses, piers, docks, launching ramps, marine railways, beaches, utilities, and ground improvements, the records are maintained in the following locations:

- Facilitator, TVA, 17 Ridgeway Road, Norris, TN 37828 (Norris).
- Facilitator, TVA, 804 Highway 321 North, Suite 300, Lenoir City, TN 37771-6440 (Fort Loudon, Tellico, and Fontana).
- Facilitator, TVA, Heritage Federal Bank Bldg, 4105 Fort Henry Dr., Suite 218, Kingsport, TN 37663 (Boone, Bristol Project, Watauga, Wilbur, Ft. Patrick Henry, and South Holston).
- Facilitator, TVA, 4833 Highway 58, Chattanooga, TN 37416 (Chickamauga and Nickajack).
- Facilitator, TVA, 201 Old Murphy Road, Murphy, NC 28906 (Hiwassee, Chatuge, Blue Ridge, Nottely, Appalachia, and Ocoees).

—Facilitator, TVA, 2009 Grubb Road, Lenoir City, TN 37771 (Watts Bar and Melton Hill).

—Facilitator, TVA, 2611 West Andrew Johnson Highway, Morristown, TN 37814-3295 (Cherokee and Douglas).

—Facilitator, TVA, 2325 Henry Street, Guntersville, AL 35976-1868 (Guntersville).

—Facilitator, TVA, 119 County Road No. 412, Town Creek, AL 35672-8789 (Great Falls, Tims Ford, Normandy, and Wheeler).

—Facilitator, TVA, 202 West Blythe Street, Post Office Box 280, Paris, TN 38242-2080 (Kentucky, Beech River, and Columbia).

—Facilitator, TVA, Reservation Road, Post Office Box 1010, Muscle Shoals, AL 35662-1010 (Pickwick, Bear Creek, and Wilson).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system includes individuals who have filed a Section 26a application for approval of construction of such structures as boat ramps, docks, bridges, and dams located along, across, or in the Tennessee River and its tributaries. Also included in this system may be individuals whose structures do not have Section 26a permits, or whose approved structures have deteriorated so as to pose a threat to navigation, flood control, public lands or reservations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Section 26a permit applications made by individuals, businesses and industries, utilities, and Federal, State, county and city Government agencies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831-831dd.

PURPOSE(S):

Section 26a of the Tennessee Valley Authority Act of 1933, as amended, requires that TVA review and approve plans for the construction, operation, and maintenance of any dam, appurtenant works, or other obstruction affecting navigation, flood control, or public lands or reservations across, along, or in the Tennessee River or any of its tributaries. The information collected is used to assess the impact of the proposed project on the statutory TVA programs and the environment and determine if the project can be approved. Rules on the application for review and approval of such plans are published in 18 CFR part 1304, Approval of Construction in the Tennessee River System and Regulation of Structures.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To State or other Federal agencies for use in program evaluation, providing assistance to program participants, or engaged at TVA's direction in providing support services to the program, to the extent necessary to the performance of those services.

To TVA consultants, contractors, subcontractors or individuals who contract or subcontract with TVA, who are engaged in studies and evaluation of TVA's administration or other matters involving its Section 26a program or who are providing support services to the program, to the extent necessary to the performance of the contract.

To provide information to a Federal, State, or local entity in response to its request, in connection with the letting of a contract, or issuance of a license, grant, or other benefit by the requesting entity to the extent that the information is relevant and necessary to the requesting agency's decision on such matters.

To respond to a request from a Member of Congress regarding the status of a specific application.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To refer, where there is an indication of a violation of statute, regulation, order, or similar requirement, whether criminal, civil, or regulatory in nature, to the appropriate entity, including Federal, State, or local agencies or other entities charged with enforcement, investigative, or oversight responsibility.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Records are maintained on automated data storage devices, on microfilm, and in hard copy files.

RETRIEVABILITY:

Records may be retrieved by personal identifier (name of applicant), land tract number, or Section 26a application number, stream location, reservoir, county, or subdivision. Records in field offices are interfiled with land tract records and are retrieved by land tract number.

SAFEGUARDS:

Access to and use of these records are limited through physical, administrative, and computer system safeguards to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Records are maintained in accordance with established TVA records retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Vice President, Resource
Stewardship, TVA, Knoxville, TN
37902-1499.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if information on them is maintained in this system of records should address inquiries to the system manager named above. Requests should include the individual's full name. A land tract number, Section 26a permit application number, stream location or legal property description is not required but may expedite TVA's response.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about them in this system of records should contact the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

Information in this system is solicited from the individual to whom the record pertains. Information may also be obtained from other Federal, State, county or city Government agencies; public records and directories; landowners, tenants, and other individuals and business entities, including financial institutions, having an interest in or knowledge related to land ownership, appraisal, or title history; and TVA personnel and contractors including independent appraisers and commercial title companies.

TVA-37**SYSTEM NAME:**

U.S. TVA Police Records—TVA.

SYSTEM LOCATION:

U.S. TVA Police, TVA, 400 West Summit Hill Drive, SPT 5A, Knoxville, Tennessee 37902-1499. Duplicate copies of certain documents may also be located in the field offices of the various U.S. TVA Police Districts.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

A. Individuals who relate in any manner to official U.S. TVA Police investigations into incidents or events occurring within the jurisdiction of TVA, including but not limited to suspects, victims, witnesses, close relatives, medical personnel, and associates who have relevant information to an investigation.

B. Individuals who are the subject of unsolicited information or who offer unsolicited information, and law enforcement personnel who request assistance and/or make inquiries concerning records.

C. Individuals including, but not limited to, current or former employees; current or former contractor and subcontractor personnel; visitors and other individuals that have or are seeking to obtain business or other relations with TVA; individuals who have requested and/or have been granted access to TVA buildings or property, or secured areas within a building or property.

D. Individuals who are the subject of research studies including, but not limited to, crime profiles, scholarly journals, and news media references.

E. Individuals who respond to emergency situations at TVA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information related to case investigation reports on all forms of incidents or events, visitor and employee registers, TVA forms authorizing access for individuals into TVA buildings or secured areas within a building, and historical information on an individual's building access or denial of access; U.S. TVA Police Uniform Incident Reports (UIRs) on incidents or events; visitor and employee registers, TVA forms, or permits authorizing access for individuals into TVA buildings, property, or secured areas within buildings or property, and historical information on an individual's access or denial of access within buildings or property; the U.S. TVA Police confrontational data base; emergency personnel information data bases; permit applications under the Archaeological Resources Protection Act (ARPA); risk, security, emergency preparedness, and fire protection assessments conducted by the U.S. TVA Police on facilities, property, or officials; research studies, scholarly journal articles, textbooks, training materials, and news media references of interest to U.S. TVA Police personnel; an index of all detected trends, patterns, profiles and methods of operation of

known and unknown criminals whose records are maintained in the system; an index of the names, address, and contact telephone numbers of professional individuals and organizations who are in a position to furnish assistance to the U.S. TVA Police; an index of public record sources for historical, statistical, geographic, and demographic data; and an alphabetical name index of all individuals whose records are maintained in the system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831-831dd; 5 U.S.C. 552a; and 28 U.S.C. 534.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the appropriate official agency, whether Federal, State, or local, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature.

In litigation where TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, information may be disclosed to respond to process issued under color of authority of a court of competent jurisdiction.

To provide information to a Federal, State, or local entity in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter, or in connection with any other matter properly within the jurisdiction of such other agency and related to its responsibilities to prosecute, investigate, regulate, and administrate, or other responsibilities.

To any Federal, State, local or foreign Government agency directly engaged in the criminal justice process where access is directly related to a law enforcement function of the recipient agency in connection with the tracking, identification, and apprehension of persons believed to be engaged in criminal activity.

To an organization or individual in both the public or private sector pursuant to an appropriate legal proceeding or if deemed necessary, to elicit information or cooperation from the recipient for use by TVA in the performance of an authorized activity.

To an organization or individual in the public or private sector where there

is reason to believe the recipient is or could become the target of a particular criminal activity or conspiracy and to the extent the information is relevant to the protection of life or property.

To the news media and general public where there exists a legitimate public interest such as obtaining public or media assistance in the tracking, identifying, and apprehending of persons believed to be engaged in repeated acts of criminal behavior; notifying the public and/or media of arrests; protecting the public from imminent threat to life or property where necessary; and disseminating information to the public and/or media to obtain cooperation with research, evaluation, and statistical programs.

To the parties or complainants, their representatives, and impartial referees, examiners, administrative judges, or other decision makers in proceedings under the TVA grievance adjustment procedures, Equal Employment Opportunity procedures, Merit Systems Protection Board, or similar procedures.

To appropriately respond to congressional inquiries on behalf of constituents.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored manually in locked file cabinets, either in hard copy or on microfilm at the U.S. TVA Police offices in Knoxville, TN. The active main files are maintained in hard copy form and some inactive records are maintained on microfilm. In addition, some of the information is stored in computerized data storage devices at the U.S. TVA Police offices in Knoxville, TN. Investigative information which is maintained in computerized form may be stored in memory, on disk storage, on computer tape, or on computer printed listings.

RETRIEVABILITY:

On-line computer access to U.S. TVA Police files is achieved by using the following search descriptors:

A. The names of individuals, their birth dates, physical descriptions, social security numbers, and other identification numbers, such as Uniform Incident Report numbers.

B. As previously described, summary variables contained on Uniform Incident Reports submitted to the U.S. TVA Police.

C. Key word citations to research studies, scholarly journals, textbooks, training materials, and news media references.

SAFEGUARDS:

Records are maintained in restricted areas and are accessed only by U.S. TVA Police employees. Security is provided by a comprehensive program of physical, administrative, personnel, and computer system safeguards. Access to and use of records is limited to authorized U.S. TVA Police personnel and to other authorized officials and employees of TVA on a need-to-know basis. Sensitive or classified information in electronic form is encrypted prior to transmission to ensure confidentiality, security, and to prevent interception and interpretation.

RETENTION AND DISPOSAL:

Records are disposed of in accordance with established TVA records retention schedules. U.S. TVA Police will conduct periodic review to determine if these records are historical and should be placed in permanent files after established retention periods and administrative needs of the U.S. TVA Police have elapsed. As deemed necessary, certain records may be subject to restricted examinations by 44 U.S.C. 2104.

SYSTEM MANAGER(S) AND ADDRESS:

Director, U.S. TVA Police, TVA, 400 West Summit Hill Drive, SPT 5A, Knoxville, TN 37902-1499.

NOTIFICATION PROCEDURE:

This system of records is exempt from this requirement pursuant to 5 U.S.C. 552a(j)(2) and (k)(2) and TVA regulations at 18 CFR 1301.24.

RECORD ACCESS PROCEDURES:

This system of records is exempt from this requirement pursuant to 5 U.S.C. 552a(j)(2) and (k)(2) and TVA regulations at 18 CFR 1301.24.

CONTINUING RECORD PROCEDURE:

This system of records is exempt from this requirement pursuant to 5 U.S.C. 552a(j)(2) and (k)(2) and TVA regulations at 18 CFR 1301.24.

RECORD SOURCE CATEGORIES:

This system of records is exempt from this requirement pursuant to 5 U.S.C. 552a(j)(2) and (k)(2) and TVA regulations at 18 CFR 1301.24.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from subsections (c)(3); (d); (e)(1), (e)(G), (H), and (I) and (f) of 5 U.S.C. 552a (section 3 of the Privacy Act of 1974) pursuant to 5 U.S.C. 552a(k)(2) and TVA regulations at 18 CFR 1301.24. This system of records is exempt from subsections (c)(3), (d), (e)(1), (e)(2),

(e)(3), (e)(4)(G), (H), and (I), (e)(5), (e)(8), and (g) pursuant to 5 U.S.C. 552(j)(2) and TVA regulations at 18 CFR 1301.24.)

TVA-38

SYSTEM NAME:

Wholesale and Retail Data System—TVA.

SYSTEM LOCATION:

Customer Service and Marketing, Nashville, TN 37229-2409, and Customer Service Centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

TVA wholesale and retail customers' key personnel and governing bodies.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, telephone number, emergency numbers, interests, key dates, associates, and credentials of TVA's wholesale and retail customers and their officers and other personnel.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831-831dd.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To respond to a referral from a Member of Congress.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on automated data storage devices.

RETRIEVABILITY:

Records are organized by wholesale and retail customer name and indexed by individual's name.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties require such access. Files are kept in a secured database. Access requires a login ID and password.

RETENTION AND DISPOSAL:

Records are maintained in accordance with established TVA records retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Project Manager, Customer Service,
TVA, P.O. Box 292409, Nashville, TN
37229-2409.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if information on them is maintained in this system of records should address inquiries to the system manager named above. Requests should include the individual's full name and employer.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about them in this system of records should contact the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

The information for this system is obtained from TVA's wholesale and retail customers and their personnel.
William S. Moore.

Senior Manager, Administrative Services
[FR Doc. 99-13535 Filed 5-28-99; 8:45 am]
BILLING CODE 8120-08-P

DEPARTMENT OF TRANSPORTATION**Office of the Secretary****Aviation Proceedings, Agreements Filed During the Week of May 21, 1999**

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. Sections 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST-99-5694.

Date Filed: May 17, 1999.

Parties: Members of the International Air Transport Association.

Subject:

PTC2 ME 0062 dated 20 April 1999 (Issuance)

PTC2 ME 0064 dated 14 May 1999 (Adoption)

Mail Vote 997—Resolution 010d TC2 Special Passenger Amending

Resolution Within

Middle East Fares from Bahrain.

Oman, Qatar, United

Arab Emirates

Intended effective date: 1 June 1999.

Docket Number: OST-99-5695.

Date Filed: May 17, 1999.

Parties: Members of the International Air Transport Association.

Subject:

PTC2 EUR-ME 0074 (Re-issue) dated

21 April 1999 (Issuance)

PTC2 EUR-ME 0076 dated 14 May

1999 (Adoption)

Mail Vote 998—Resolution 010e

TC2 Special Passenger Amending

Resolution Europe-Middle

East Fares from Bahrain, Oman, Qatar,

United Arab Emirates

Intended effective date: 1 June 1999.

Docket Number: OST-99-5703.

Date Filed: May 18, 1999.

Parties: Members of the International Air Transport Association.

Subject:

PTC COMP 0453 dated 18 May 1999

Mail vote 996—Resolution 024e

Rules for Payment of Local Currency

Fares (Amending)

Intended effective 15 June 1999.

Dorothy W. Walker,

Federal Register Liaison

[FR Doc. 99-13807 Filed 5-28-99; 8:45 am]

BILLING CODE 4910-62-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****Notice of Intent To Request Renewal From the Office of Management and Budget (OMB) of Current Public Collections of Information**

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the FAA invites public comment on 12 currently approved public information collections which will be submitted to OMB for renewal.

DATES: Comments must be received on or before August 2, 1999.

ADDRESSES: Comments on any of these collections may be mailed or delivered to the FAA at the following address: Ms. Judith Street, Room 612, Federal Aviation Administration, Standards and Information Division, APF-100, 800 Independence Ave., SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Ms. Judith Street at the above address or on (202) 267-9895.

SUPPLEMENTARY INFORMATION: The FAA solicits comments on any of the current collections of information in order to evaluate the necessity of the collection, the accuracy of the agency's estimate of the burden, the quality, utility, and clarity of the information to be collected, and possible ways to

minimize the burden of the collection. Following are short synopses of the 12 currently approved public information collection activities which will be submitted to OMB for review and renewal:

1. 2120-0014. Procedures for Non-Federal Navigation Facilities—FAR 171. The respondents are an estimated 1300 facility sponsors. The estimated annual burden is 20,800 hours. *Abstract:* The non-Federal navigation facilities are aids to air navigation which are purchased, installed, operated and maintained by a public entity other than the FAA and are available for use by the flying public. Navigation aids may be located at unattended remote enrollee sites or at manned airport terminal locations.

2. 2120-0015. FAA Airport Master Record. The respondents are approximately 14,300 civil airports. The estimated annual burden is 4,500 hours. *Abstract:* 49 USC 329(b) empowers and directs the Secretary of Transportation to collect and disseminate information on civil aeronautics. Aeronautical information is required by the FAA in order to carry out FAA missions related to safety, flight planning, forecasting, airport engineering, and Federal grants analyses. The data is the basic source of data for private, state, Federal and governmental aeronautical charts and publications.

3. 2120-0044. Rotorcraft External Load Operator Certificate Application—FAR 133. The respondents are an estimated 400 rotorcraft external load operators. The estimated annual burden is 3,300 hours. *Abstract:* 14 CFR part 133, was adopted to establish certification and operating rules governing nonpassenger-carrying rotorcraft external-load operations conducted for compensation or hire. As such, the FAA requires information in order to maintain its regulatory responsibilities.

4. 2120-0060. General Aviation and Air Taxi Activity and Avionics Survey. The respondents are approximately 21,000 owners of general aviation aircraft. The estimated annual burden is 5,300 hours. This information is used by FAA, NTSB, and other government agencies, the aviation industry, and others for safety assessment, planning, forecasting, cost/benefit analysis and to target areas for research.

5. 2120-0098. Aircraft Operator Security, 14 CFR part 108. The respondents are an estimated 270 air carriers. The burden hours are an estimated 11,000 hours. The security programs identify the procedures to be

used by air carriers in carrying out their responsibilities under the law to protect persons and property on an aircraft operating in air transportation or intrastate air transportation against acts of criminal violence and aircraft piracy.

6. 2120-0535, Anti Drug-Abuse Program for Personnel Engaged in Specified Aviation Activities. The respondents are an approximate 5,500 specified aviation employers. The estimated annual burden is 35,500 hours. *Abstract:* FAA regulations require specified aviation employers to implement and conduct FAA approved anti-drug-plans. They monitor program compliance, institute program improvements, and anticipate program problem areas. The FAA receives drug test reports from the aviation industry. More detailed and specified information is necessary to effectively manage the anti-drug program.

7. 2120-0572, Operating Procedures for Airport Traffic Control towers (ATCT) that are not Operated by or Under Contract with the United States (non-Federal Advisory Circular (AC) 90-93). The respondents are an estimated 65 non-Federal airport traffic control tower vendors, managers, and air traffic controllers. The estimated annual burden is 2,300 hours. *Abstract:* The FAA is requesting operators of non-Federal ATCT's to voluntarily comply with the recommendations as stated in the Advisory Circular as well as to voluntarily submit information by using the listed forms, in the same manner as is currently prescribed for FAA air traffic personnel.

8. 2120-0576, Kansas City Customer Satisfaction Questionnaire. The respondents are 100 general aviation pilots, air taxi operators, airlines, military pilots, and adjacent facilities. The estimated annual burden is 25 hours. *Abstract:* The information collected on this form represents customer feedback concerning the quality of service provided to the users of Kansas City ARTCC airspace. This information may be used to solve problems, improve safety, and increase system efficiency.

9. 2120-0577, Explosives Detection Systems Certification Testing. The respondent is the manufacturer of explosives detection systems. The estimated annual burden is 750 hours. *Abstract:* Pub. L. 101-604 requires the FAA Administrator to certify explosives detection systems, pursuant to protocols developed outside the agency, prior to mandating their use. The information is necessary for the FAA to perform certification testing on systems submitted by manufacturers.

10. 2120-0578, Training and Checking in Ground Icing Conditions. The respondents are an estimated 25 new air carriers. The estimated annual hours is 1,000 hours. *Abstract:* The required collection that respondents must prepare and submit to the FAA contains those airplane ground deicing/anti-icing policies and procedures that ensure the highest level of safety during icing conditions.

11. 2120-0604, Aviation Medical Examiner Program. The respondents would be an estimated 450 people who desire to become aviation medical examiner. We estimate an annual burden of 225 hours. *Abstract:* The collection of information is for the purpose of obtaining essential information concerning the applicant's professional and personal qualifications. The FAA uses the information provided to screen and select the designees who serve as aviation medical examiners. The collection of information is currently accomplished through the use of FAA Form 8520-2, Aviation Medical Examiner Designation Application.

12. 2120-0605, ACSEP Evaluation Customer Feedback Report. The information will be collected from holders of FAA production approvals and selected suppliers to obtain their input on how well the agency is performing the administration and conduct of the Aircraft Certification Systems Evaluation Program (ACSEP). The agency will use the information as a customer service standard and to continually improve ACSEP. We estimate 450 respondents for a burden of 225 hours.

Issued in Washington, DC, on May 25, 1999.

Steve Hopkins,

Manager, Standards and Information Division, APF-100.

[FR Doc. 99-13821 Filed 5-28-99; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Key Field Airport, Meridian, MS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose the revenue and use the revenue from a PFC at Key Field

Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before July 1, 1999.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Airports District Office, Federal Aviation Administration, 120 North Hanger Drive, Suite B, Jackson, Mississippi 39208-2306.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Tom Williams, Executive Director of the Meridian Airport Authority at the following address: Post Office Box 4351, Meridian, MS 39304-4351.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Meridian Airport Authority under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: David Shumate, Program Manager, FAA Airports District Office, 120 North Hanger Drive, Suite B, Jackson, Mississippi 39208-2306, telephone number (601) 965-4628. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose the revenue from and use the revenue from a PFC at Key Field Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On May 20, 1999, the FAA determined that the application to impose the revenue from and use the revenue from a PFC submitted by Meridian Airport Authority was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than September 10, 1999.

The following is a brief overview of the application.

PFC Application No.: 99-06-C-00-MEI.

Level of the proposed PFC: \$3.00

Proposed charge effective date:

September 1, 2002.

Proposed charge expiration date: May 1, 2004.

Total estimated PFC revenue: \$148,000.

Brief description of proposed project(s): Rehabilitate Beacon; Rehabilitate Security Fencing; Rehabilitate Emergency Access Road; Rehabilitate Runway 1/19 HIRL and Taxiway B MITL; Replace Terminal Seating; Rehabilitate General Aviation Ramp; and Update Master Plan.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the office of the Meridian Airport Authority.

Issued in Jackson, Mississippi, on May 20, 1999.

Wayne Atkinson,

Manager, Jackson Airports District Office, Southern Region

[FR Doc. 99-13822 Filed 5-28-99; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favour of relief.

Adirondack Scenic Railroad

Docket Number FRA-1999-5515

Adirondack Scenic Railroad (ADCX) seeks a permanent waiver of compliance from certain provisions of the Safety Glazing Standards, 49 CFR 223.11, and 223.15, that requires certified glazing, for one locomotive and seven passenger cars utilized on the Old Forge train, and a temporary waiver of compliance from certain provisions of the Safety Glazing Standards, 49 CFR 223.15, that requires certified glazing, for seven passenger cars utilized on the Utica train. The ADCX is located in Thendara, New York, and in Utica, New York. The railroad states that it operates tourist excursions over 20 miles of track from Thendara, New York (Old Forge train), six days a week, four trips a day, and a 104-mile round trip excursion from

Utica, New York, two round trips on weekends, one round trip weekdays. Maximum operating speed does not exceed 30 mph.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA-1999-5515) and must be submitted in triplicate to the Docket Clerk, DOT Central Docket Management Facility, Room PL-401, Washington, DC 20590-0001. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.-5 p.m.) at DOT Central Docket Management Facility, Room PL-401 (Plaza Level), 400 Seventh Street SW, Washington, DC. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at <http://dms.dot.gov>.

Issued in Washington, DC on May 21, 1999.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 99-13790 Filed 5-28-99; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with 49 CFR 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance with certain requirements of the Federal safety laws and regulations. The petition is described below, including the regulatory provisions involved, the nature of the relief being requested and the petitioner's arguments in favour of relief.

Mc Cloud Railway Company

(Docket Number FRA-1998-4855)

The Mc Cloud Railway Company (MCR) seeks a waiver of compliance from 49 CFR 230.108 (b) (which requires that main air reservoirs shall be hammer tested over its entire surface not less than once every 18 months) for steam locomotive number 25. MCR would like to substitute ultrasonic testing of the reservoir in lieu of hammer testing. Ultrasonic testing would be performed each time the locomotive is shopped for general repairs, but not less frequently than once each 18 months. The railroad feels that ultrasonic testing will provide a more accurate evaluation of the reservoir's condition than hammer testing.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA-1998-4855) and must be submitted in triplicate to the Docket Clerk, DOT Central Docket Management Facility, Room PL-401, Washington, DC 20590-0001. Communications received within 45 days from the publication of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.-5 p.m.) at DOT Central Docket Management Facility, Room PL-401 (Plaza Level), 400 Seventh Street SW, Washington, DC. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at <http://dms.dot.gov>.

Issued in Washington, DC on May 21, 1999.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 99-13789 Filed 5-28-99; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION**Federal Railroad Administration****Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236**

Pursuant to Title 49 Code of Federal Regulations (CFR) Part 235 and 49 U.S.C. App. 26, the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

Docket No.: FRA-1999-5432.

Applicant: Belt Railway Company of Chicago, Mr. Charles S. Ridgeway, Signal Supervisor/Manager, 6900 South Central Avenue, Bedford Park, Illinois 60638.

The Belt Railway Company of Chicago seeks approval of the proposed temporary discontinuance of the signal system, on all tracks within interlocking limits, at East End Switches Interlocking Plant, in Chicago Illinois, for approximately three months, during construction associated with the complete upgrading and replacement of the power-operated switches and interlocking signal system.

The reason given for the proposed changes is the need to replace the 1950's, installed electro-pneumatic switch machines and all-relay interlocking, with new dual-control, electric switch machines and new microprocessor-based interlocking, associated with significant track changes.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the Protestant in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PI-401, Washington, DC 20590-0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.-5 p.m.) at DOT

Central Docket Management Facility, Room PI-401 (Plaza Level), 400 Seventh Street, SW, Washington, DC 20590-0001. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at <http://dms.dot.gov>.

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on May 21, 1999.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 99-13788 Filed 5-28-99; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION**Federal Railroad Administration****Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236**

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. App. 26, the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

Docket No.: FRA-1999-5430.

Applicant: Union Pacific Railroad Company, Mr. P. M. Abaray, Chief Engineer Signals, 1416 Dodge Street, Room 1000, Omaha, Nebraska 68179-1000.

Union Pacific Railroad Company seeks approval of the proposed discontinuance and removal of the automatic block signal system, on the Hope Industrial Lead, between Herington, Kansas, milepost 451.4 and Hope, Kansas, milepost 459.2, on the Herington Subdivision, a distance of approximately 7.8 miles.

The reason given for the proposed changes is that rails have been removed in both directions from the industrial lead and train movements are infrequent so signals are no longer needed.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the

interest of the Protestant in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PI-401, Washington, DC 20590-0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.-5 p.m.) at DOT Central Docket Management Facility, Room PI-401 (Plaza Level), 400 Seventh Street, SW, Washington, DC 20590-0001. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at <http://dms.dot.gov>.

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on May 21, 1999.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 99-13786 Filed 5-28-99; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION**Federal Railroad Administration****Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236**

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. App. 26, the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

Docket No.: FRA-1999-5431.

Applicant: Union Pacific Railroad Company, Mr. P.M. Abaray, Chief Engineer Signals, 1416 Dodge Street, Room 1000, Omaha, Nebraska 68179-1000.

Union Pacific Railroad Company seeks approval of the proposed discontinuance and removal of the signal system at Katy Neck, milepost 1.6, near Houston, Texas, on the Glidden Subdivision, including conversion of the interconnecting track between Harrisburg Junction and Manchester Junction to dark yard limits, and removal of the electrically locked gate.

The reason given for the proposed changes is that due to changes in train operations, the electrically locked gate at Katy Neck causes unnecessary train delays.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the Protester in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PI-401, Washington, DC 20590-0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.-5 p.m.) at DOT Central Docket Management Facility, Room PI-401 (Plaza Level), 400 Seventh Street, SW, Washington, DC 20590-0001. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at <http://dms.dot.gov>.

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on May 21, 1999.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 99-13787 Filed 5-28-99; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-98-4033; Notice 2]

Cosco, Inc.; Denial of Application for Decision of Inconsequential Noncompliance

Cosco, Incorporated, of Columbus, Indiana, has determined that a number of child restraint systems that it manufactured fail to comply with 49 CFR 571.213, Federal Motor Vehicle Safety Standard (FMVSS) No. 213, "Child Restraint Systems," and has filed an appropriate report pursuant to 49 CFR part 573, "Defects and Noncompliance Reports." Cosco has also applied to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301 "Motor Vehicle Safety" on the basis that the noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of the application was published, with a 30-day comment period, on July 22, 1998, in the *Federal Register* (63 FR 39359). We received no comments.

FMVSS No. 213, S5.4.3.5(b), requires that, after the dynamic test of S6.1 of the standard, when tested in accordance with the appropriate sections of S6.2 of the standard, any buckle in a child restraint system belt assembly designed to restrain a child using the system shall release when a force of not more than 71 Newtons (N) (16 pounds) is applied, provided that the conformance of any child restraint to this requirement is determined using the largest of the test dummies specified in S7 for use in testing that restraint when the restraint is facing forward, rearward, and/or laterally. Additionally, S5.4.3.5(e) requires that any buckle in a child restraint system belt assembly designed to restrain a child using the system shall not release during the dynamic testing specified in S6.1 of the standard.

Four Cosco Touriva T-shield convertible child restraints, Model 02-096, were tested at Calspan Corporation as part of NHTSA's child restraint compliance testing program. When tested with the 3-year-old dummy in the upright position, the plunger pin of the buckle assembly of one of the seats was sheared, and the buckle released during the dynamic test. Following a retest of another seat conducted using the same configuration, the post-test buckle release force exceeded 71 N (77.8 N, or 17.5 lb). The post-test release forces for units tested with the infant dummy and with the 3-year-old dummy in the reclined position did not exceed 71 N.

We notified Cosco of the test failures noted above, as documented in Calspan Report Number 213-CAL-96-013. Following that notification, Cosco conducted its own investigation, in which it obtained results that, in some cases, were similar to those in our tests. Thereafter, Cosco notified us of its determination that it manufactured and distributed a number of Touriva convertible child restraint systems that do not comply with the above requirements. The units covered by that determination are those Touriva T-shield models manufactured from May 1, 1996, through November 26, 1997, as follows: Touriva Convertible Safe T-Shield, Full Wrap Fabric Cover (Model 02-084, 5/96 to 11/97, quantity: 11,018); Touriva Convertible Safe T-Shield, Partial Wrap Fabric Cover (Model 02-094, 5/96 to 11/97, quantity: 7,202); Touriva Convertible Safe T-Shield, Full Wrap Fabric Cover with Pillow (Model 02-096, 5/96 to 10/97, quantity: 1,411); Touriva Convertible Safe T-Shield, Partial Wrap Vinyl Cover (Model 02-404, 5/96 to 5/97, quantity: 682); Touriva Convertible Safe T-Shield, Partial Wrap Fabric Cover (Model 02-821, 5/96 to 11/97, quantity: 186,040). Cosco supports its application for a determination of inconsequential noncompliance with the following:

Cosco was able to obtain units manufactured both on and near the dates in question as well as subsequent production units. After extensive in-house dynamic testing and analysis, units were sent to Calspan for testing. Cosco made repeated trips to Calspan in an attempt to understand and resolve this potential noncompliance. Cosco was able to obtain results in isolated tests similar to that of the FY96 NHTSA tests. Cosco was not able to attribute the potential noncompliance to the design or manufacture of any particular component. We ran dozens of in-house tests and spent hundreds of hours in an effort to determine the reason isolated units manufactured on or after 5/10/96 were inconsistently exhibiting high post-test buckle release pressure and shearing of the plunger pin. The results have been inconsistent. The T-shield units involved in NHTSA's FY97 test program tested successfully, but were of identical construction and design to those which failed the FY96 testing.

Since the Touriva T-shield models were first introduced in 1994, Cosco has required the vendor who is molding the housing and plunger pin and assembling the buckle assembly housing, spring and plunger pin to perform a pretest buckle release pressure on each assembly. No buckle assembly exhibiting a pretest buckle release pressure of over 13 lb nor under 10 lb has ever been used in the production of any Touriva convertible child restraint, including the T-shield units in question. In searching for possible explanations for the isolated deficiencies, Cosco made a material change to the housing

of the buckle assembly and the material of the plunger pin. This material change has resulted in eliminating any potential noncompliance related to both the high post-test buckle release pressure and the shearing of the plunger pin, although the minimal differences in properties between the materials does not adequately or conclusively explain the test results. All T-shield units manufactured after November 27, 1997 have a housing manufactured using 30% glass filled nylon instead of ABS and a plunger pin using Delrin 100P versus Delrin 500. The T-shield units supplied for NHTSA FY98 testing had the new materials incorporated into the buckle assembly.

In its part 573 Report to the agency, Cosco stated that it:

... does not believe that any defect or repeatedly discernable noncompliance exists with the subject child restraint... While a small percentage of the Calspan tests performed on the subject units did exhibit noncompliance results, a vast majority of identical child restraints manufactured during the same period produced complying test results. Cosco concludes from this testing and our exhaustive analysis of the subject child restraints and testing procedures that the noncompliance test results are not the result of the design, materials, or manufacturing processes involved in the production of the subject child restraints, but rather test variables and anomalies that are inherent in the 213 test procedures.

In the summary of its application for consequential noncompliance, Cosco stated that it "does not believe the inconsistent deficiency exhibited by a few of the tested units warrants a recall." Cosco concluded that "reasonable evaluation of the facts surrounding this technical noncompliance will result in the decision that no practical safety issue exists."

We are denying Cosco's application for the following reasons.

Ultimately, the issue in this case is whether this particular noncompliance is likely to increase the risk to safety through an evaluation of the potential injuries that would be incurred by a child in the event that a seat exhibited the noncompliance at issue. Instead of assessing the gravity of the noncompliance based upon the likely consequences, Cosco simply attributes the noncompliant conditions to "test variables and anomalies that are inherent in the 213 test procedures." In essence, Cosco's primary contention appears to be that many of the seats in question would not have failed to meet the performance requirements of the standard. However, this claim is relevant only to the issue of whether a noncompliance exists in a particular seat or some number of seats, not whether the noncompliance has significant safety consequences. Cosco

has failed to provide any information which would support a determination that these noncompliances do not create a significant safety risk. Thus, we are unable to reasonably conclude that existence of the acknowledged noncompliant condition is inconsequential to safety.

The purpose of the post-dynamic test buckle force requirement of S5.4.3.5(b) is to assure that adults can easily and quickly remove a child from the restraint following a crash. When we issued FMVSS No. 213 (44 FR 72131, December 13, 1979), we specified that buckles must release when a force of not more than 20 pounds was applied after conducting the dynamic systems test required by section S6.1 of the standard. After adoption of the standard, we received information indicating that at this force level, many adults would not be able to easily release the buckle. A report done for us by K. Weber and N.P. Allen concluded that a force of 20 pounds is difficult for most women to generate with one hand. We had also been provided with consumer letters received by one child restraint manufacturer commenting on the difficulty of operating the child restraint harness buckles, and had received numerous telephone calls from consumers complaining about the size of the release buttons on child restraint belts and the high force levels required to operate them.

We subsequently amended the requirement regarding the maximum allowable force to operate the buckle release mechanism following the dynamic sled test described in S6.1 of the standard from the original level of 20 pounds to 16 pounds (50 FR 33722, August 21, 1985). A research study conducted by Peter Arnberg for the National Swedish Road and Traffic Institute ("Handling Performance of Buckles on Child Seats with Regard to Opening Force Requirements", 1975) showed that a 20 pounds force requirement allowed buckles which require two hand operation by many adults, particularly adult females, and two hand operation is often awkward and may adversely affect safety in emergency situations. The Arnberg study showed that while two hands were necessary to operate buckles with a 80 N (18 pounds) release force, 95 percent of adult females tested were able to operate buckles with a 70 N (15.6 pound) release force with only one hand. While facilitating operation of buckles by one hand, this lower force was also considered sufficient to account for damage which might occur to the buckle during the impact test and to counter the forces which could be

exerted on the buckle by a child hanging upside down in rollover crash conditions.

We have been consistent in the manner in which we have addressed other instances of noncompliances with the post-test buckle release force requirements in the past. Since 1992, three other child restraints have failed to satisfy these requirements in compliance tests. One of these cases is currently under investigation, while in the other two cases, the manufacturer recalled the affected seats. In one instance, the post-test buckle release force was measured three times at 16.4, 16.4, and 19.9 pounds—only marginally above the requirement of 16 pounds as stated in S5.4.3.5(b) of the standard.

When the Cosco Touriva T-shield (Model 02-096) was tested with the 3-year-old dummy in the upright position, the plunger pin of the buckle assembly was sheared, and the buckle released during the dynamic test. In a retest conducted using the same configuration, the buckle assembly did not release, but the post-test buckle release force was 77.8 N (17.5 lb). Testing performed by Calspan for Cosco in an effort to isolate the cause of these test failures yielded results identical to those found in our compliance testing program with respect to both failure types. Excluding a number of tests that appear to have been conducted outside of the FMVSS 213 test envelope, and others where the pre- and post-buckle release forces were not measured for some reason, Cosco notes that four of 40 tests resulted in the buckle releasing during the dynamic test while another four exceeded the allowable post-buckle release force. We do not agree with Cosco's assertion that a "small percentage of the Calspan tests performed on the subject units did exhibit noncompliance results," since we do not consider a failure rate of 20 percent to constitute a "small percentage." Moreover, as stated above, the percentage of seats covered by a noncompliance determination that actually will exhibit the noncompliance is not relevant to the issue of consequentiality. It is often not possible to identify precisely which vehicles or items of equipment covered by a noncompliance determination actually are noncompliant. The issue is whether the noncompliance is consequential to safety.

It is also important to note that in most instances where the buckle released during the dynamic test (both in NHTSA compliance tests and in tests performed for Cosco), the head excursion measurements were above the acceptable limit prescribed in section S5.1.3.1(a) of Standard No. 213, and in

at least one instance, the dummy was not retained within the restraint. Failure of the child restraint system in this manner increases the likelihood of head injury to the occupant, which is clearly not insignificant or inconsequential to safety.

Following the NHTSA compliance test failures, Cosco implemented a material change to the housing of the buckle assembly and the material of the plunger pin. Cosco incorporated these material changes into all T-shield restraints manufactured after November 27, 1997 (the effective date for this engineering change is December 5, 1997, as no soft shield units were produced between November 27 and December 5). Testing performed by Cosco has demonstrated that this material change has resulted in the elimination of any noncompliance related to both the high post-test buckle release force and the shearing of the plunger pin. Test results provided in Cosco's application show that some units manufactured as late as November 1997—immediately prior to incorporation of the material change—failed to meet the performance requirements of the standard because the buckle released during dynamic testing, head excursion exceeded 813 mm (32.0 inches), and in one case, the dummy was not retained within the restraint. All subsequent tests of units with the revised materials, including compliance tests performed for NHTSA, have yielded passing results. Despite this, in its application for decision of inconsequential noncompliance, Cosco contends that the "minimal differences in properties between the materials does not adequately or conclusively explain the test results."

However, if the material properties of the differing buckle assembly housing and plunger pin are virtually identical as stated by Cosco, T-shields manufactured with the new materials would be expected to exhibit inconsistent test results similar to those in question, specifically with respect to release of the buckle assembly during dynamic testing and excessive post-test buckle release forces. Testing of child restraint systems with the material change incorporated has not demonstrated this. Accordingly, we are unconvinced that the noncompliant conditions are simply attributable to "test variances and anomalies that are inherent in the 213 test procedures" as Cosco claims. Rather, these test results indicate that a recall by Cosco in which the earlier seats were modified by bringing them up to the performance level of the later seats would have a beneficial and "consequential" impact on safety.

In its application for decision of inconsequential noncompliance, Cosco states that:

The public, upon seeing the number of recalls, concludes that child restraints currently available are unsafe and therefore declines to use them. The agency is aware and, in fact, has publicly advised consumers to use child restraints which have defects or noncompliances that have resulted in recalls until such child restraints can be corrected. This is in recognition of the fact that technical noncompliance does not compromise the overall effectiveness of child restraints.

We wish to clarify and correct the above statement. It is correct that we generally advise consumers to continue using child restraints which have identified defects or noncompliances until such a time when the appropriate remedy can be effected. However, this is in recognition that—in most cases—use of a child restraint with an identified defect or noncompliance is safer than the alternatives of (a) restraining the young child with a vehicle belt system that does not fit properly, or (b) not restraining the child at all. In the absence of a grant of an inconsequentiality petition, we have never stated, nor implied, that a noncompliance—"technical" or otherwise—does not compromise the safety or effectiveness of child restraints.

In consideration of the foregoing, we have decided that the applicant has not met its burden of persuasion that the noncompliance it describes is inconsequential to safety. Accordingly, its application is hereby denied.

(49 U.S.C. 30118, 30120, delegations of authority at 49 CFR 1.50 and 501.8).

Issued on May 26, 1999.

L. Robert Shelton,
Associate Administrator for Safety
Performance Standards.

[FR Doc. 99-13823 Filed 5-28-99; 8:45 am]

BILLING CODE 4910-20-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-98-4383; Notice 2]

Kolcraft Enterprises, Inc.; Denial of Application for Decision of Inconsequential Noncompliance

Kolcraft Enterprises of Chicago, Illinois, has determined that 706,068 child restraint systems it manufactured fail to comply with 49 CFR 571.213, Federal Motor Vehicle Safety Standard (FMVSS) No. 213, "Child Restraint Systems," and has filed an appropriate

report pursuant to 49 CFR part 573, "Defects and Noncompliance Reports." Kolcraft has also applied to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301—"Motor Vehicle Safety" on the basis that the noncompliance is inconsequential to safety.

Notice of receipt of the application was published on September 8, 1998, in the *Federal Register* (63 FR 47545), with a 30-day comment period. We received no comments.

FMVSS No. 213, S5.6.1.8, requires:

In the case of each child restraint system that can be used in a position so that it is facing the rear of the vehicle, the instructions shall provide a warning against using rear-facing restraints at seating positions equipped with air bags, and shall explain the reasons for, and consequences of not following the warning. The instructions shall also include a statement that owners of vehicles with front passenger side air bags should refer to their vehicle owner's manual for child restraint installation instructions.

In adopting S5.6.1.8, we said that such instructions would "complement" the requirement that owner's manuals of vehicles having a front passenger side air bag provide information regarding "proper positioning of occupants, including children, at seating positions equipped with an air bag." 59 FR 7643, 7646 (Feb. 16, 1994) (final rule). This requirement appears in S4.5.1(f) of FMVSS No. 208, which was added in 1993. 58 FR 46551, 46564 (Sep. 2, 1993) (final rule).

The items affected by the noncompliance are the instructions for proper use that were provided after August 15, 1994, with certain models of Kolcraft's child restraints in its effort to comply with S5.6 of FMVSS No. 213. Kolcraft's instructions provided the appropriate warning against using rear-facing restraints at seating positions equipped with air bags, as well as the reason for the warning and the consequences of not following it. However, Kolcraft's instructions did not include a statement expressly referring owners of vehicles with front passenger side air bags to their vehicle owner's manual for child restraint installation instructions. The noncompliances began August 15, 1994, the effective date of S5.6.1.8. The following models of child restraints were affected by the noncompliance: Rock'n Ride (until April 1996); Auto-Mate (until June 1997); Traveler 700 (until December 1995); Performa (until June 1997); and Secure Fit (until June 1997). The total number of child restraints involved is 706,068. In response to an April 17, 1997, letter from us concerning miscellaneous compliance issues,

Kolcraft has subsequently revised its instructions to conform to S5.6.1.8.

Kolcraft supports its application for inconsequential noncompliance with the following:

S4.5.1(f) of FMVSS No. 208 requires owner's manuals to provide information regarding "proper positioning of occupants, including children, at seating positions equipped with air bags." (Emphasis supplied.) It does not, however, require a vehicle manufacturer to include "child restraint installation instructions" in general. Indeed, for rear-facing infant restraints such as Kolcraft's Rock "n Ride, there should be no child restraint installation instructions for "seating positions equipped with air bags," because rear-facing restraints should not be used in air bag equipped seats. And not surprisingly, no owner's manual we reviewed contains installation instructions for rear-facing infant seats at "seating positions equipped with air bags"; rather, they consistently warn against installation of a rear-facing restraint at an air bag equipped seating position. While some owner's manuals contain child restraint installation instructions for other (non-air bag) seating positions, not all owner's manuals contain such information. Thus, since the vehicle owner's manual will not always yield the "child restraint installation" information apparently contemplated by S5.6.1.8 of FMVSS No. 213, the inadvertent omission from the Kolcraft instruction sheets of a reference to the vehicle owner's manual is not consequential to motor vehicle safety.

Moreover, although Kolcraft does not question the usefulness of a statement directing vehicle owners to their owner's manual for "complement[ary]" (59 FR at 7646) information relating to the positioning of occupants—especially children—at seat positions equipped with air bags, Kolcraft's inadvertent failure to include such a statement in its instructions is inconsequential because Kolcraft's instructions set forth in detail the very information about child restraint installation and the proper positioning of children that is contemplated in S5.6.1.8 and the final rule promulgating the regulation, and, in many cases, exceed that information. In short, the omission of the statement directing owners of vehicles with front passenger side air bags to their owner's manual would not deprive vehicle owners using Kolcraft child restraints from any information germane to the safe installation of child restraints in vehicles equipped with air bags.

For example, Kolcraft's instructions include warnings not to place a rear-facing child restraint in a seat equipped with air bags, as well as a statement explaining the reason for the warning and the consequences of ignoring it. The instructions provide information regarding appropriate seating positions. The instructions also provide elaborate information about how to install child restraints with a variety of seat belts, and they illustrate a number of different seat belt configurations, explaining which are and which are not appropriate for use in installing child restraints. The instructions also explain why certain configurations are

inappropriate and what vehicle owners should do if a seat belt will not hold a child restraint tightly. Thus, Kolcraft's instructions provide all the information concerning installation and positioning of children that S5.6.1.8 apparently contemplates would be provided in owner's manuals, and, in many respects, exceed the information described in S5.6.1.8. Accordingly, Kolcraft's inadvertent noncompliance with S5.6.1.8's requirement of a statement referring to the vehicle owner's manual is inconsequential as it relates to motor vehicle safety.

Kolcraft does not question the usefulness or importance of S5.6.1.8's requirement that the instructions for child restraints direct owners of vehicles with front passenger side air bags to their vehicle owner's manual for child restraint installation instructions. As soon as it learned of its noncompliance with the requirement, Kolcraft revised its instructions to conform exactly to S5.6.1.8. However, because Kolcraft's noncompliant instructions provide detailed information relating to the installation of child restraints with a variety of seat belt configurations, as well as information concerning the proper positioning of children in vehicles equipped with air bags, the omission of a statement referring to the owner's manual in Kolcraft's instructions was inconsequential with respect to vehicle safety.

We are denying Kolcraft's application for the following reasons.

By way of background, upon conducting dynamic testing in 1991 that indicated air bags generally produce substantial increases in the values for the head injury criterion (HIC) and chest acceleration of dummies seated in rear-facing child restraints (compared to dummies in rear-facing restraints tested with no air bag), we sought to inform consumers about the adverse interaction of rear-facing child restraints and air bags as quickly as possible. We issued a "Consumer Advisory" (December 10, 1991) which warned parents about using rear-facing child seats in vehicle seats equipped with an air bag. Subsequently, we initiated actions in two separate areas to ensure that consumers would be provided important safety information about the effect of air bags on rear-facing child restraints.

First, on December 14, 1992, we published a Notice of Proposed Rulemaking (NPRM) which proposed to amend FMVSS No. 208, "Occupant Crash Protection," to (1) specify that vehicle manufacturers must install air bags as the means to provide the automatic crash protection required by the standard, and (2) require that labels bearing specified information about air bags be placed in vehicles equipped with air bags, and that additional, more detailed information about air bags be provided in the vehicle owner's manual (57 FR 59043). The proposed labeling

requirements were intended to ensure that consumers will have access to important safety information with respect to the air bags installed in their vehicles, including specific warnings against installing rearward-facing child restraint systems in front passenger seating positions equipped with an air bag. We published a final rule adopting these amendments on September 2, 1993 (58 FR 46551). The owner's manual requirements became effective on March 1, 1994, and the vehicle label requirements became effective on September 1, 1994.

Second, on April 16, 1993, we supplemented these actions by publishing an NPRM which proposed to amend labeling and other requirements of FMVSS No. 213 for rear-facing infant restraint systems (58 FR 19792). We proposed to require that (1) warning labels for these systems include a warning against using the restraint in any vehicle seating position equipped with an air bag, and (2) printed instructions for rear-facing restraints include safety information about air bags. We published a final rule adopting these requirements on February 16, 1994 (59 FR 7643). In response to a suggestion from Volkswagen, we also included the requirement at question in Kolcraft's application, namely, that the written instructions provided with child restraint systems that can be used in a position so that it is facing the rear of the vehicle must include a statement that owners of vehicles with front passenger side air bags should refer to their vehicle owner's manual for child restraint installation instructions. The vehicle owner's manual would include precautions specific to the vehicle that should be heeded for the safety of occupants, including children. These would include information on where to place a child restraint system in the air-bag equipped vehicle, which is an item of vehicle-specific information that only the vehicle manufacturer—and not the child restraint manufacturer—can provide. These requirements became effective on August 15, 1994.

We firmly believe that strict adherence to the requirements addressing warning labels, printed instructions, and information in the owner's manual as outlined above will maximize to the extent practicable the implementation of precautionary measures to preserve the safety of infants and young children traveling in motor vehicles equipped with air bags. Each of these warnings was developed with care to ensure that the specific content and location of the labels and instructions clearly and concisely convey the hazards of placing of rear-

facing child restraints in air bag-equipped seating positions. In addition, the requirements help ensure that consumers are provided information about where a rear-facing child restraint can appropriately be placed in the vehicle.

In the years since these amendments were adopted, we have continued to work very closely with both vehicle and child restraint manufacturers and others in the child passenger safety community to reduce the likelihood that a rear-facing infant restraint would be placed in a vehicle seating position that has an air bag. Through media advisories, consumer information fact sheets, revisions to the vehicle and restraint labeling and information requirements noted above, and other means, the entire child passenger safety community has taken measures to educate the public regarding the detrimental effects of a quickly deploying air bag when it strikes the seat back of a rear-facing infant restraint.

However, between 1995 and 1998, and despite the concerted efforts detailed above, we have confirmed that 15 children have been fatally injured in crashes where their rear-facing child restraints were installed in a seating position that was equipped with an air bag that had deployed, and another nine have sustained serious, but nonfatal, injuries.

The statement missing from Kolcraft's product conveys important safety information. Kolcraft contends that, while (1) S5.6.1.8 of FMVSS No. 213 requires written instructions for child restraints to include a statement "that owners of vehicles with front passenger side air bags should refer to their vehicle owner's manual for child restraint *installation instructions*," (emphasis added), and (2) the corresponding requirements of S4.5.1(f) of FMVSS No. 208 requires vehicle owner's manuals to provide information regarding "proper positioning of occupants, including children, *at seating positions equipped with air bags*," (emphasis added), there, in fact, should be no child restraint "installation instructions" for "seating positions equipped with air bags," because rear-facing restraints should not be used in air bag equipped seats. We believe that Kolcraft is too narrowly interpreting the phrase "installation instructions" in the S5.6.1.8 requirement of FMVSS No. 213 as it relates to the S4.5.1(f) requirements of FMVSS No. 208.

In the final rule addressing installation of air bags and associated information to appear on labels and in owner's manuals (58 FR 46551), we specified that the vehicle owner's manual must provide any necessary precautions regarding the proper positioning of occupants, including children, at seating positions equipped with air bags to ensure maximum safety protection for those occupants. In commenting on our proposal to adopt this requirement, SafetyBeltSafe U.S.A. stated that it felt:

Complete information on the positioning of infants in cars with passenger side air bags would be essential in the vehicle owner's manual. It should include these points: (1) Children riding in a rear-facing restraint must never ride in the front seat if a passenger air bag is installed, because the air bag could hit the leading edge of the child restraint with great force if it deploys; (2) therefore, children under 20 pounds (and about one year of age) must always ride in a child restraint that faces the rear (or in a car bed that meets FMVSS 213) and must be placed in the rear seat, so they will not be hit by the air bag. If a child uses a car bed, this advice also applies, because current car beds have not been accepted for use in an air bag position. A child under this size must never be turned to face forward in the front or rear seat, due to the risk of neck and spinal cord injury; and (3) If there is no rear seat, this vehicle is not suitable for children under 20 pounds and one year, given the current state of the art of child restraints." (Docket 74-14-N79-005)

We adopted the requirement without incorporating the SafetyBeltSafe recommendations, explaining that "the agency believes that a requirement specifying that the owner's manual must provide any necessary precautions regarding the proper positioning of children at seating positions equipped with air bags to ensure maximum safety protection for those occupants is sufficient to ensure that information along the lines identified by SafetyBeltSafe U.S.A. will be provided." (58 FR 46557.) From this, it is clear that we did not intend to limit the information included in the vehicle owner's manual to specific "installation instructions" for child restraints per se, but rather, for the owner's manual to detail all necessary precautions to ensure safety, such as identification of which seating positions are appropriate, and which are not, for positioning child restraints depending upon the orientation of the child restraint, forward or rear facing. We consider this information to be "installation instructions," and in fact, most vehicle manufacturers now include specific

warnings against the use of rear-facing child restraints in air bag-equipped seating positions in their owner's manuals similar to those suggested by SafetyBeltSafe USA. Kolcraft's argument that the subject noncompliance is inconsequential on the theory that rear-facing child restraints should not be used in seating positions equipped with air bags, and as such, no "installation instructions" for such seating positions need be provided in the vehicle's owner's manual, is incorrect.

Further, in an issue as sensitive as air bags and infants, Kolcraft's failure to fully comply with the requirements of Standard No. 213—specifically, by not including the statement required in S5.6.1.8 referring owners of vehicles with front passenger side air bags to their vehicle owner's manual for child restraint installation instructions for supplemental information in 706,068 of its child restraints between 1994 and 1997—should not be excused. We do not accept Kolcraft's explanation as an indication that it exercised reasonable care in developing its product and associated documentation when Kolcraft states that "Kolcraft believes that the S5.6.1.8 requirement was overlooked because the NPRM did not propose the requirement * * * thus, because it (Kolcraft) was already in compliance with the requirement contemplated in that subsection of the NPRM, Kolcraft believes that its personnel did not check that subsection in the final rule and, therefore, did not discover that the requirement of a statement referring to the owner's manual had been added in the final rule." We cannot condone Kolcraft's approach given the grave potential consequences should a parent mistakenly place a child in a rear-facing child restraint in a seating position equipped with an air bag that subsequently deploys in a crash.

In consideration of the foregoing, NHTSA has decided that the applicant has not met its burden of persuasion that the noncompliance it describes is inconsequential to safety. Accordingly, its application is hereby denied.

Authority: 49 U.S.C. 30118(d), 30120(h) delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: May 26, 1999.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 99-13824 Filed 5-28-99; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket: RSPA-98-4957; Notice 4]

Information Collection; Request for Comment

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Request for comments and OMB approval.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, RSPA published a notice in the *Federal Register* to announce the Research and Special Programs Administration's request to renew an information collection in support of the Office of Pipeline Safety (OPS) for Customer Owned Service Lines. RSPA's information collection concerns a pipeline safety regulation that requires gas service line operators who do not maintain certain customer piping to notify the customers of the need to maintain the piping. One comment was received. This comment was with regard to a definition of service lines. The operator of this particular line is not subject to this regulation. This notice gives the public an additional 30 day comment period.

DATES: Comments on this notice must be received by July 1, 1999, to be assured of consideration.

ADDRESSES: Copies of this information collection can be reviewed at the Dockets Facility, U.S. Department of Transportation, Plaza 401, 400 Seventh St., SW, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Marvin Fell, Office of Pipeline Safety, Research and Special Programs Administration, Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Title: Customer-Owned Service Lines.
OMB Number: 2137-0594.

Type of Request: Existing information collection.

Abstract: RSPA regulation (49 CFR 192.16) requires operators of gas service lines who do not maintain buried customer piping up to building walls or certain other locations to notify their customers of the need to maintain that piping. Congress directed DOT to take this action in view of service line accidents. By advising customers of the need to maintain their buried gas piping, the notices may reduce the risk of further accidents.

In addition, each operator must make the following records available for

inspection by RSPA or a State agency participating under 49 U.S.C. 60105 or 60106: (1) A copy of the notice currently in use; and (2) evidence that notices have been sent to customers within the previous 3 years.

Estimate of Burden: Minimal.

Respondents: Gas transmission and distribution operators.

Estimated Number of Respondents: 1,590.

Estimated Number of Responses per Respondent: 350.

Estimated Total Annual Burden on Respondents: 9,137 hours.

Comments are invited on: (a) The need for the proposed collection of information for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques.

Send comments to Office of Regulatory Affairs, Office of Management and Budget, 726 Jackson Place, NW, Washington, DC 20503, ATTN: Desk Officer for the Department of Transportation.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Issued in Washington, DC on May 26, 1999.

Jeffrey D. Wiese,
Program Development Manager, Office of Pipeline Safety.

[FR Doc. 99-13817 Filed 5-28-99; 8:45 am]
BILLING CODE 4910-60-P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket RSPA-98-4957; Notice 3]

Information Collection; Request for Comments

ACTION: Request for Comments and OMB Approval.

AGENCY: Research and Special Programs Administration, DOT.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, RSPA published a notice in the *Federal Register* to announce the Research and

Special Programs Administration's (RSPA) request to renew an information collection in support of the Office of Pipeline Safety (OPS) for Excess Flow Valves (EFV) Customer Notification. Comments were requested from the public. No comments were received. The public is being given another 30 days to provide comments on this information collection.

DATES: Comments on this notice must be received by July 1, 1999, to ensure consideration.

ADDRESSES: Copies of this information collection can be reviewed at the Dockets Facility, Plaza 401, U.S. Department of Transportation, 400 Seventh St., SW., Washington, DC, 10 a.m. to 4 p.m. Monday through Friday excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Marvin Fell, Office of Pipeline Safety, Research and Special Programs Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20950, telephone (202) 366-1640 or e-mail marvin.fell@rspa.dot.gov.

SUPPLEMENTARY INFORMATION:

Title: Excess Flow Valves, Customer Notification.

OMB Number: 2137-0593.

Abstract: 49 U.S.C. 60110 directed DOT to prescribe regulations requiring operators to notify customers in writing about EFV availability, the safety benefits derived from installation, and the costs associated with installation. The regulations provide that, except where installation is already required, the operator will install an EFV that meet prescribed performance criteria at the customer's request, if the customer pays for the installation.

Estimate of Burden: The average burden hours per response is.

Respondents: Gas Distribution Pipeline Operators.

Estimated Number of Respondents: 1590.

Estimated Total Annual Burden on Respondents: 82,500 hours.

Comments are invited on: (a) The need for the proposed collection of information for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated,

electronic, mechanical, or other technological collection techniques.

Send comments to Office of Regulatory Affairs, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, ATTN: Desk Officer for the Department of Transportation. All comments will be a matter of public record.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Issued in Washington, DC on May 26, 1999.

Jeffrey D. Wiese,

Program Development Manager, Office of Pipeline Safety

[FR Doc. 99-13818 Filed 5-28-99; 8:45 am]

BILLING CODE 4910-60-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33748]

Union Pacific Railroad Company— Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company

The Burlington Northern and Santa Fe Railway Company (BNSF) has agreed to grant overhead trackage rights to Union Pacific Railroad Company (UP) over BNSF's rail line between Shawnee Jct., WY, at milepost 117.1 (Orin Subdivision) and Northport, NE, at milepost 33.8 (Angora Subdivision), a distance of 146.4 miles.¹

The transaction was scheduled to be consummated on June 13, 1999.

The purpose of the trackage rights is to permit UP to use the BNSF trackage when UP's trackage is out of service for scheduled maintenance.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d)

may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33748, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Joseph D. Anthofer, 1416 Dodge Street, #830, Omaha, NE 68179.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided:

By the Board, David M. Konschnik,
Director, Office of Proceedings
Vernon A. Williams,

Secretary

[FR Doc. 99-13832 Filed 5-28-99; 8:45 am]

BILLING CODE 4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33749]

Union Pacific Railroad Company— Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company

The Burlington Northern and Santa Fe Railway Company (BNSF) has agreed to grant overhead trackage rights to Union Pacific Railroad Company (UP) over BNSF's rail line known as the Madill Subdivision between Carrollton, TX, BNSF milepost 700.17, and South Joe, TX, BNSF milepost 633.0, a total distance of approximately 67.5 miles.¹

The transaction is scheduled to be consummated on or shortly after June 21, 1999.

The purpose of the trackage rights is to permit UP to use the BNSF trackage when UP's trackage is out of service for maintenance.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

¹ On May 21, 1999, UP filed a petition for exemption in STB Finance Docket No. 33749 (Sub-No. 1), *Union Pacific Railroad Company—Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company*, wherein UP requests that the Board permit the proposed overhead trackage rights arrangement described in the present proceeding to expire on August 28, 1999. That petition will be addressed by the Board in a separate decision.

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33749, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Joseph D. Anthofer, Esq., 1416 Dodge Street, #830, Omaha, NE 68179.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: May 25, 1999.

By the Board, David M. Konschnik,
Director, Office of Proceedings

Vernon A. Williams,

Secretary

[FR Doc. 99-13831 Filed 5-28-99; 8:45 am]

BILLING CODE 4915-00-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request For Forms SS-4 and SS-4PR

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form SS-4, Application for Employer Identification Number, and Form SS-4PR, Solicitud de Numero de Identificación Patronal (EIN).

DATES: Written comments should be received on or before August 2, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the forms and instructions

¹ On May 21, 1999, UP filed a petition for exemption in STB Finance Docket No. 33748 (Sub-No. 1), *Union Pacific Railroad Company—Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company*, wherein UP requests that the Board permit the proposed overhead trackage rights arrangement described in the present proceeding to expire on June 29, 1999. That petition will be addressed by the Board in a separate decision.

should be directed to Carol Savage, (202) 622-3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Form SS-4, Application for Employer Identification Number, and Form SS-4PR, Solicitud de Número de Identificación Patronal (EIN).

OMB Number: 1545-0003.

Form Number: Forms SS-4 and SS-4PR.

Abstract: Taxpayers who are required to have an identification number for use on any return, statement, or other document must prepare and file Form SS-4 or Form SS-4PR (Puerto Rico only) to obtain a number. The information is used by the Internal Revenue Service and the Social Security Administration in tax administration and by the Bureau of the Census for business statistics.

Current Actions: There are no changes being made to the forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals or households, not-for-profit institutions, farms, Federal government and state, local or tribal governments.

Estimated Number of Respondents: 2,419,064.

Estimated Time Per Respondent: 1 hour, 35 minutes.

Estimated Total Annual Burden Hours: 3,846,692.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the

information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 25, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99-13836 Filed 5-28-99; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 9779, 9779(SP), 9783, 9783(SP), 9787, 9787(SP), 9789, 9789(SP) and 12252

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Forms 9779, 9779(SP), 9783, 9783(SP), 9787, 9787(SP), 9789, 9789(SP) and 12252, Electronic Federal Tax Payment System (EFTPS).

DATES: Written comments should be received on or before August 2, 1999, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the forms and instructions should be directed to Carol Savage, (202) 622-3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Electronic Federal Tax Payment System (EFTPS).

OMB Number: 1545-1467.

Form Number: Forms 9779, 9779(SP), 9783, 9783(SP), 9787, 9787(SP), 9789, 9789(SP) and 12252.

Abstract: These forms are used by business and individual taxpayers to

enroll in the Electronic Federal Tax Payment System (EFTPS). EFTPS is an electronic remittance processing system that the Service uses to accept electronically transmitted federal tax payments. EFTPS (1) establishes and maintains a taxpayer data base which includes entity information from the taxpayers or their banks, (2) initiates the transfer of the tax payment amount from the taxpayer's bank account, (3) validates the entity information and selected elements for each taxpayer, and (4) electronically transmits taxpayer payment data to the IRS.

Current Actions: There are no changes being made to the forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals, business or other for-profit organizations, and state, local or tribal governments.

Estimated Number of Respondents: 4,471,000.

Estimated Time Per Respondent: 20 minutes.

Estimated Total Annual Burden Hours: 1,490,019.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 25, 1999

Garrick R. Shear,

IRS Reports Clearance Officer

[FR Doc. 99-13837 Filed 5-28-99; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Citizen Advocacy Panel, Pacific-Northwest District

ACTION: Notice.

SUMMARY: An open meeting of the Pacific-Northwest District Citizen Advocacy Panel will be held in McLean, Virginia.

DATES: The meeting will be held Thursday, July 1, 1999.

FOR FURTHER INFORMATION CONTACT: Deborah A. Diamond at 1-888-912-1227 or 206-220-6099.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an operational meeting of the Citizen Advocacy Panel will be held Thursday, July 1, 1999, 1:00 p.m. to 4:00 p.m. at the Booz Allen & Hamilton Conference Center, 8283 Greensboro Drive, McLean, VA. Due to limited conference space, notification of intent to attend the meeting must be made with Deborah Diamond. Ms. Diamond can be reached at 1-888-912-1227 or 206-220-6099. The public is invited to make oral comments from 2:00 p.m. to 3:00 p.m. on Thursday, July 1, 1999. Individual comments will be limited to 5 minutes. If you would like to have the CAP consider a written statement, please call 1-888-912-1227 or 206-220-6099, or write Deborah Diamond, CAP Office, 915 2nd Avenue; M/S W-406, Seattle, WA 98174.

The Agenda will include the following: subcommittee reports and various IRS issues.

Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

Dated: May 26, 1999.

M. Cathy VanHorn,
CAP Project Manager.

[FR Doc. 99-13834 Filed 5-28-99; 8:45 am]

BILLING CODE 4830-01-U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of Citizen Advocacy Panel, Brooklyn District

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice of open meeting of Citizen Advocacy Panel, Brooklyn District

SUMMARY: An open meeting of the Brooklyn District Citizen Advocacy Panel to be held in Brooklyn, New York.

DATES: The meeting will be held Thursday, June 10, 1999

FOR FURTHER INFORMATION CONTACT: Kevin McKeon at 1-888-912-1227 or 718-488-3555

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an operational meeting of the Citizen Advocacy Panel will be held Thursday, June 10, 1999, 6:00 p.m. to 9:00 p.m. at 10 MetroTech Center, 6th Floor, 625 Fulton Street, Brooklyn, N.Y. 11201. Due to limited conference space, notification of intent to attend the meeting must be made with Kevin McKeon. Mr. McKeon can be reached at 1-888-912-1227 or 718-488-3555. The public is invited to make oral comments from 7:00 p.m. to 8:00 p.m. on Thursday, June 10, 1999. Individual comments will be limited to 5 minutes.

If you would like to have the CAP consider a written statement, please call 1-888-912-1227 or 718-488-3555, or write Kevin McKeon, CAP Office, P.O. Box R, Brooklyn, N.Y., 11202.

The Agenda will include the following: reports of the sub-committees and various IRS issues.

Note: Last minute changes to the agenda are possible and could prevent effective advance notice

Dated: May 18, 1999.

M. Cathy VanHorn,
CAP Project Manager

[FR Doc. 99-13835 Filed 5-28-99; 8:45 am]

BILLING CODE 4830-01-U

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition Determinations: "Modern Masterworks From the Israel Museum, Jerusalem"

AGENCY: United States Information Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85-5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit "Modern Masterworks From the Israel Museum, Jerusalem," imported from abroad for temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lenders. I also determine that the exhibition or display of the listed exhibit objects at the Cleveland Museum of Art, Cleveland, OH, from, on or about June 13, 1999, to, on or about August 29, 1999, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For a copy of the list of exhibit objects or for further information, contact Jacqueline Caldwell, Assistant General Counsel, Office of the General Counsel, United States Information Agency, at 202/619-6982, or USIA, 301 4th Street, S.W., Room 700, Washington, D.C. 20547-0001.

Dated: May 26, 1999

Les Jin,

General Counsel

[FR Doc. 99-13782 Filed 5-28-99; 8:45 am]

BILLING CODE 8230-01-M

DEPARTMENT OF VETERANS AFFAIRS

Adjustments for Service-Connected Benefits

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: As required by the Veterans Programs Enhancement Act of 1998, Pub. L. 105-368, the Department of Veterans Affairs (VA) is hereby giving notice of adjustments in certain benefit rates. These adjustments affect the compensation, dependency and indemnity compensation (DIC), and Medal of Honor pension programs.

DATES: These adjustments are effective December 1, 1998, the date provided by Pub. L. 105-368.

FOR FURTHER INFORMATION CONTACT: Paul Trowbridge, Consultant, Compensation and Pension Service (213B), Veterans Benefits Administration, Department of Veterans

Affairs, 810 Vermont Avenue, NW,
Washington, DC 20420, (202) 273-7218.

SUPPLEMENTARY INFORMATION: Section 301 of Pub. L. 105-368 increases the rate of Medal of Honor pension under 38 U.S.C. 1562(a) to \$600. Section 1101 of Pub. L. 105-368 provides for an increase in each of the rates in sections 1114, 1115(1), 1162, 1311, 1313, and 1314 of the title 38, United States Code. VA is required to increase these benefit rates by the same percentage as increased in the benefit amounts payable under title II of the Social Security Act. In computing increased rates in the cited title 38 sections, fractions of a dollar are rounded down to the nearest dollar. The increased rates are required to be published in the Federal Register.

The Social Security Administration has announced that there will be a 1.3 percent cost-of-living increase in Social Security benefits. Therefore, applying the same percentage, the following rates for VA compensation and DIC programs will be effective December 1, 1998:

	Monthly rate (dollars)
Disability Compensation (38 U.S.C. 1114)	
Disability Evaluation:	
10%	96
20%	184
30%	282
40%	404
50%	576
60%	726
70%	916
80%	1,062
90%	1,196
100%	1,989
(38 U.S.C. 1114(k) through (s))	
38 U.S.C. 1114(k)	75; 2,474; 75; 3,470

	Monthly rate (dollars)
38 U.S.C. 1114(l)	2,474
38 U.S.C. 1114(m)	2,729
38 U.S.C. 1114(n)	3,105
38 U.S.C. 1114(o)	3,470
38 U.S.C. 1114(p)	3,470
38 U.S.C. 1114(r)	1,490; 2,218
38 U.S.C. 1114(s)	2,227

**Additional Compensation for Dependents
(38 U.S.C. 1115(1))**

38 U.S.C. 1115(1):	
38 U.S.C. 1115(1)(A)	115
38 U.S.C. 1115(1)(B)	197; 60
38 U.S.C. 1115(1)(C)	79; 60
38 U.S.C. 1115(1)(D)	93
38 U.S.C. 1115(1)(E)	217
38 U.S.C. 1115(1)(F)	182

**Clothing Allowance (38 U.S.C. 1162)—\$534
per year**

DIC to a Surviving Spouse (38 U.S.C. 1311)

Pay Grade:	
E-1	861
E-2	861
E-3	861
E-4	861
E-5	861
E-6	861
E-7	890
E-8	940
E-9	980
W-1	909
W-2	946
W-3	974
W-4	1,030
O-1	909
O-2	940
O-3	1,004
O-4	1,062
O-5	1,170
O-6	1,318
O-7	1,424
O-8	1,561
O-9	1,672

	Monthly rate (dollars)
O-10 ²	1,834

**DIC to a Surviving Spouse (38 U.S.C.
1311(a) Through (d))**

38 U.S.C. 1311(a) through (d):	
38 U.S.C. 1311(a)(1)	861
38 U.S.C. 1311(a)(2)	187
38 U.S.C. 1311(b)	217
38 U.S.C. 1311(c)	217
38 U.S.C. 1311(d)	105

DIC to Children (38 U.S.C. 1313)

38 U.S.C. 1313:	
38 U.S.C. 1313(a)(1)	365
38 U.S.C. 1313(a)(2)	526
38 U.S.C. 1313(a)(3)	683
38 U.S.C. 1313(a)(4)	683; 133

**Supplemental DIC to Children (38 U.S.C.
1314)**

38 U.S.C. 1314:	
38 U.S.C. 1314(a)	217
38 U.S.C. 1314(b)	365
38 U.S.C. 1314(c)	184

¹ If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, the surviving spouse's monthly rate is \$1,057.

² If the veteran served as Chairman or Vice Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, the surviving spouse's monthly rate is \$1,966.

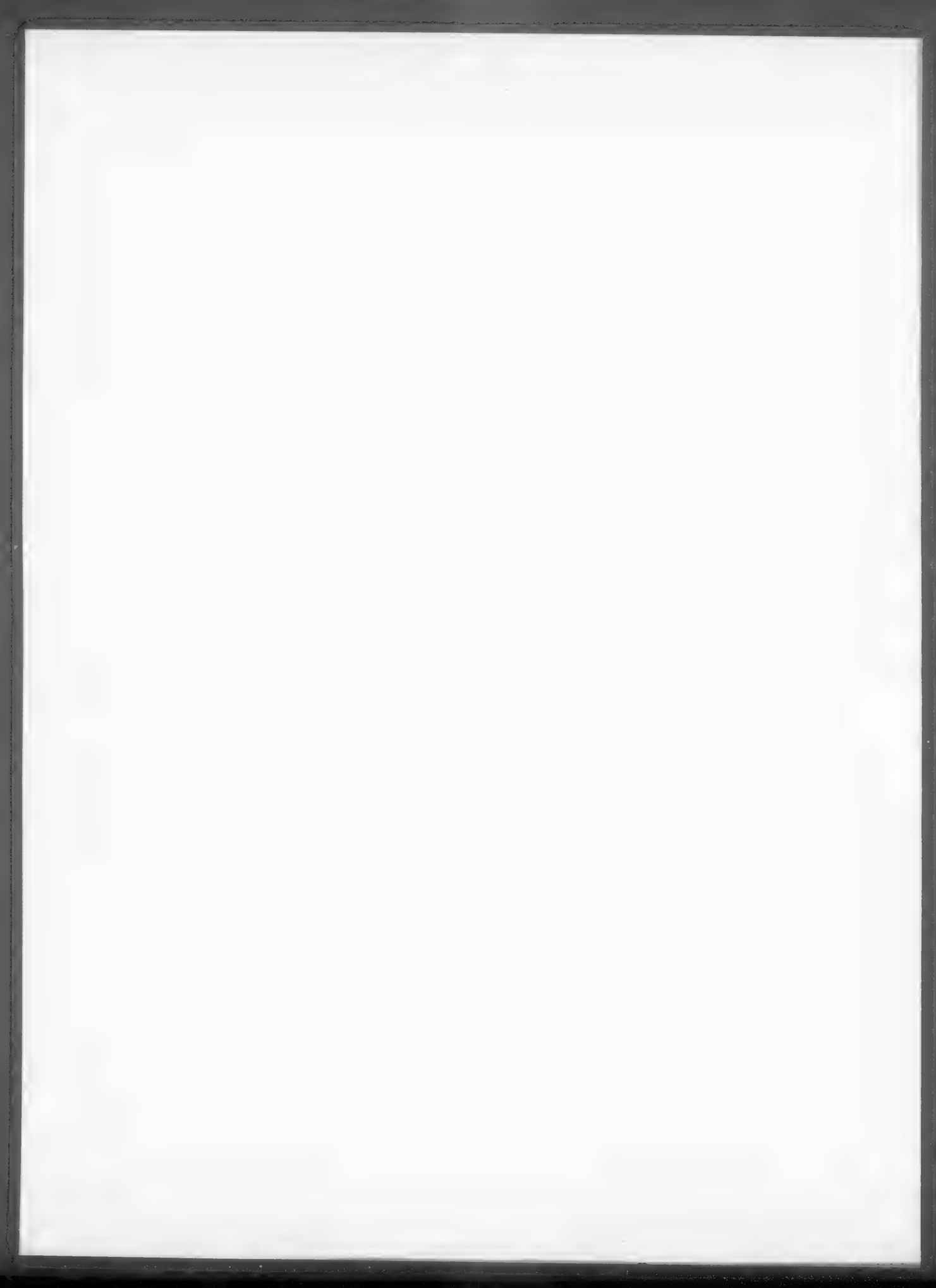
Dated: May 21, 1999.

Togo D. West, Jr.,

Secretary of Veterans Affairs.

[FR Doc. 99-13772 Filed 5-28-99; 8:45 am]

BILLING CODE 8320-01-M



Federal Register

**Tuesday
June 1, 1999**

Part II

**Environmental
Protection Agency**

40 CFR Part 63

**National Emission Standards for
Hazardous Air Pollutants for Polyether
Polyols Production; Final Rule**

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 63**

[FRL-6344-7]

RIN 2060-AE-86

National Emission Standards for Hazardous Air Pollutants for Polyether Polyols Production**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

SUMMARY: This rule promulgates national emission standards for hazardous air pollutants (NESHAP) for new and existing plant sites that manufacture polyether polyols. The hazardous air pollutants (HAP) emitted by the facilities covered by this rule include ethylene oxide (EO), propylene oxide (PO), hexane, toluene, and incidental emissions of several other HAP. Some of these pollutants are considered to be probable human carcinogens when inhaled, and all can cause toxic effects following exposure. The rule is estimated to reduce emissions of these pollutants by 1,810 Megagrams per year (Mg/yr) (2,000 tons per year (tons/yr)). Because all of the pollutants are also volatile organic compounds (VOC), which are precursors to ambient ozone, the promulgated rule will also aid in the reduction of tropospheric ozone.

DATES: This regulation is effective on June 1, 1999.

ADDRESSES: Docket. Docket No. A-96-38, containing information considered by the EPA in development of the promulgated standards, is available for public inspection from 8:00 a.m. to 5:30 p.m., Monday through Friday, at the following address in room M-1500,

Waterside Mall (ground floor): U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460, telephone number (202) 260-7548. A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT: For information concerning this final rule or the analyses performed in developing this rule, contact Mr. David Svendsgaard, Organic Chemicals Group, Emission Standards Division (MD-13), Office of Air Quality Planning and Standards, U.S. EPA, Research Triangle Park, North Carolina 27711, telephone number (919) 541-2380, facsimile number (919) 541-3470, electronic mail address svendsgaard.dave@epa.gov. For information concerning applicability and rule determinations, contact your State or local representative or the appropriate EPA Regional Office representatives. For a listing of EPA Regional contacts, see the following.

SUPPLEMENTARY INFORMATION:**Electronic Access**

These final standards and all other information considered by the EPA in the development of these final standards are available in Docket Number A-96-38 by request from the EPA's Air and Radiation Docket and Information Center (see **ADDRESSES**). Electronic versions of documents from the Office of Air and Radiation (OAR) are available through the EPA's OAR Technology Transfer Network Web site (TTNWeb). The TTNWeb is a collection of related Web sites containing information about many areas of air pollution science, technology, regulation, measurement, and prevention. The TTNWeb is directly accessible from the Internet via the World Wide Web location at the following address: <http://www.epa.gov/ttn>. Electronic versions of this preamble

and rule are located under the OAR Policy and Guidance Information Web site, at <http://www.epa.gov/ttn/oarpg/>, under the **Federal Register** notices section. If more information on the TTNWeb is needed, contact the Systems Operator at (919) 541-5384.

EPA Regional Office Contacts

Director, Office of Environmental Stewardship, Attn: Air Compliance Clerk, U.S. EPA Region I, 1 Congress Street, Suite 1100 (SEA), Boston, MA 02114-2023 (617) 918-1740
 Umesh Dholakia, U.S. EPA Region II, 290 Broadway Street, New York, NY 10007-1866, (212) 637-4023
 Dianne Walker, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103, (215) 814-3297
 Lee Page, U.S. EPA, Region IV, 61 Forsyth Street, SW, Atlanta, GA 30303-3104, (404) 562-9131
 Bruce Varner, U.S. EPA, Region V, 77 West Jackson Boulevard, Chicago, IL 60604-3507, (312) 886-6793
 Jim Yang, U.S. EPA, Region VI, 1445 Ross Avenue, Suite 1200 (6EN-AT), Dallas, TX 75202, (214) 665-7578
 Gary Schlicht, U.S. EPA, Region VII, 726 Minnesota Avenue, Kansas City, KS 66101, (913) 551-7097
 Tami Thomas-Burton, U.S. EPA, Region VIII, 999 18th Street, Suite 500, Denver, CO 80202, (303) 312-6581
 Ken Bigos, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744-1200
 Dan Meyer, U.S. EPA, Region X, 1200 Sixth Street, Seattle, WA 98101, (206) 553-4150

Regulated Entities

Entities regulated by this action are polyether polyols production facilities. Regulated categories and entities include:

Category	Standard industrial classification (SIC) codes	North American industrial classification system (NAICS) codes	Examples of potentially regulated entities
Industry	Typically, 2843 and 2869	Typically, 325199 and 325613	Producers of polyether polyols and polyether mono-ols.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that the EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility, company, business organization, etc., is subject to this rule, you should carefully examine the applicability criteria in 40 CFR 63.1420.

If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Judicial Review

National emission standards for polyether polyols production were proposed in the **Federal Register** on September 4, 1997 (62 FR 46804). Today's **Federal Register** action announces the EPA's final decision on

the rule. Under section 307(b)(1) of the Clean Air Act (CAA), judicial review of the final rule is available by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this final rule. Under section 307(b)(2) of CAA, the requirements that are the subject of today's final rule may not be challenged later in civil or criminal proceedings brought by the EPA to enforce these requirements.

The following outline is provided to aid in reading the preamble to the final rule.

- I. List of Source Categories
- II. Summary of Considerations Made in Developing This Standard
 - A. Background and Purpose of the Regulation
 - B. Source of Authority
 - C. Stakeholder and Public Participation
- III. Summary of Promulgated Standards
 - A. Affected Sources
 - B. Storage Vessels
 - C. Process Vents
 - D. Wastewater Operations
 - E. Equipment Leaks
 - F. Heat Exchangers
 - G. General Testing Requirements
 - H. Monitoring Levels and Excursions
 - I. General Provisions
 - J. General Recordkeeping and Reporting Requirements
- IV. Control Technology Basis of the Standard
- V. Summary of Impacts
 - A. Air Impacts
 - B. Other Environmental Impacts
 - C. Energy Impacts
 - D. Cost Impacts
 - E. Economic Impacts
- VI. Significant Comments and Changes to the Proposed Standards
 - A. Primary Product Determination
 - B. Definition of "Polyether Polyol"
 - C. Definition of "Process Vent"
 - D. Outlet Concentration Limit as an Alternative Epoxide Process Vent Emission Limit for New Sources
 - E. Flares as a Reference Control Technology
 - F. Group Determination on an Individual Process Vent Basis for Nonepoxide Organic HAP Emissions from Making or Modifying the Product
 - G. Possibility of Dual Controls for Nonepoxide Organic HAP Emissions from Making or Modifying the Product
 - H. Worst-Case Testing Requirements
 - I. Engineering Calculations as an Alternative to Performance Testing
 - J. Allowable Test Methods for Control Efficiency Determinations
 - K. Site-Specific Onset of Extended Cookout
 - L. Parameter Monitoring Excursion Definitions
 - M. Monitoring During Start-ups, Shutdowns, and Malfunctions
 - N. Process Vent Control Requirement for Epoxide Emissions from New Sources
- VII. Administrative Requirements
 - A. Docket
 - B. Executive Order 12866
 - C. Executive Order 13045
 - D. Paperwork Reduction Act
 - E. Regulatory Flexibility Act
 - F. Submission to Congress and the Comptroller General
 - G. Unfunded Mandates
 - H. Executive Order 12875
 - I. Executive Order 13084
 - J. National Technology Transfer and Advancement Act

I. List of Source Categories

The EPA identified a total of approximately 84 plant sites producing polyether polyols. Of the 84 facilities,

78 were considered in the analysis supporting the proposed rule and are believed to be major sources according to the 1990 CAA Amendments' criteria of having the potential to emit 10 tons/yr (9.1 Mg/yr) of any one HAP or 25 tons/yr (22.7 Mg/yr) of combined HAP. Today's final rule applies to all major sources that produce polyether polyols. Area sources are not subject to today's final rule.

In developing the background information to support the proposed rule, the EPA decided it was appropriate to subcategorize the source category for purposes of analyzing the maximum achievable control technology (MACT) floors and regulatory alternatives. The subcategories were: polyether polyols made from the polymerization of epoxides, and polyether polyols made from the polymerization of tetrahydrofuran (THF). An "epoxide" is a chemical compound consisting of a three-membered cyclic ether. Ethylene oxide and propylene oxide are the only epoxides that are listed as HAP under section 112(b) of the CAA. Subcategorization was necessary due to the distinctively different nature of the epoxide and THF processes and their effect on the applicability of controls. One noteworthy distinction between the two subcategories is that the first group, polyols made with epoxides, uses a HAP as the monomer, whereas the second group, polyols made with THF, does not use a HAP monomer. Additionally, the first group (epoxide reactants) performs the reaction primarily on a batch basis, while the second group (THF) performs the reaction on a continuous basis.

The Agency obtained data from facilities that make polyether products by polymerizing a compound having multiple reactive hydrogen atoms, resulting in the formation of a "polyol," and from facilities that make polyethers by polymerizing a compound with a single reactive hydrogen, which forms a "mono-ol." The Agency then investigated the distinctions between the production units and the emissions controls for products from these two groups. The Agency found no fundamental difference between the processes, the chemistry, the emissions, or the types of control equipment. Further, many producers use the same process equipment to produce polyols and mono-ols, yet they generically refer to both types of products as "polyols." Therefore, for the purposes of this regulation, the Agency uses the term "polyether polyols" to represent both polyether polyols and polyether mono-ols.

II. Summary of Considerations Made in Developing This Standard

A. Background and Purpose of the Regulation

The CAA was created in part "to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population." (section 101(b)(1)). Section 112(b) of the CAA, as revised in 61 FR 30816 (June 18, 1996), lists 188 HAP believed to cause adverse health or environmental effects. Section 112(d) requires that emission standards be promulgated for all categories and subcategories of "major" sources of these HAP, and for many smaller "area" sources listed for regulation, pursuant to section 112(c). Major sources are defined as those that emit or have the potential to emit at least 10 tons/yr (9.1 Mg/yr) of any one HAP or 25 tons/yr (22.7 Mg/yr) of any combination of HAP.

On July 16, 1992 (57 FR 31576), the EPA published a list of categories of sources slated for regulation. This list included the polyether polyol production source category regulated by the standards being promulgated today. The statute requires emissions standards for the listed source categories to be promulgated between November 1992 and November 2000. On December 3, 1993, the EPA published a schedule for promulgating these standards (58 FR 63941). Standards for the polyether polyols production source category covered by this rule were proposed on September 4, 1997 (62 FR 46804).

The final standards give existing affected sources 3 years from the date of promulgation to comply with the emission limitations for storage vessels, process vents, wastewater, and heat exchangers. Subject to certain limited exceptions, this is the maximum amount of time allowed under the CAA. The final standards give existing affected sources 6 months to comply with the equipment leak provisions. New affected sources are required to comply with the standards upon initial startup. The EPA believes these standards to be achievable for all affected sources within the time provided.

Monitoring, recordkeeping, and reporting requirements are also included in this final rule. All of these components are necessary to ensure that sources will comply with the standards both initially and over time. However, the EPA has made every effort to simplify the requirements in the rule.

B. Source of Authority

The amended CAA requires the EPA to promulgate national emission standards for sources of HAP. Section 112(d) provides that these standards must reflect:

"... the maximum degree of reduction in emissions of the HAP * * * that the Administrator, taking into consideration the cost of achieving such emission reduction, and any nonair quality health and environmental impacts and energy requirements, determines is achievable for new or existing sources in the category or subcategory to which such emission standard applies. * * * (42 U.S.C. § 7412(d)(2)).

This level of control is referred to as the MACT. The CAA goes on to establish the least stringent level of control for MACT; this level is termed the "MACT floor."

According to the CAA, new source standards for a source category or subcategory "shall not be less stringent than the emission control that is achieved in practice by the best controlled similar source, as determined by the Administrator" (section 112(d)(3)). Existing source standards shall be no less stringent than the average emission limitation achieved by the best performing 12 percent of the existing sources for source categories and subcategories with 30 or more sources, or the average emission limitation achieved by the best performing 5 sources for sources or subcategories with fewer than 30 sources (section 112(d)(3)). These two minimum levels of control define the MACT floor for new and existing sources. When the EPA considers control levels more stringent than the MACT floor described above, the selection of MACT must take into consideration the cost of achieving the emission reduction, any non-air quality, health, and environmental impacts, and energy requirements.

C. Stakeholder and Public Participation

Numerous representatives of the polyether polyol production industry were consulted during the development of this standard. Industry representatives have included both trade associations and polyether polyol producers. The EPA also received input from representatives from State environmental agencies. Representatives from other EPA offices and programs participated in the regulatory development process as members of the work group. The work group was involved in the regulatory development process and was given opportunities to review and comment on the standards before proposal and promulgation. Therefore, the EPA believes that the

impact on other EPA offices and programs has been adequately considered during the development of these standards. Finally, industry representatives, regulatory authorities, environmental groups, and the public, as a whole, had the opportunity to comment on the proposed standards and to provide additional information during the public comment period that followed proposal.

The Polyether Polyols NESHAP was proposed in the *Federal Register* on September 4, 1997 (62 FR 46804). The preamble and Basis and Purpose Document for the proposed standards for polyether polyols sources (published on September 4, 1997) described the rationale for the proposed standards. Public comments on the Polyether Polyols NESHAP were solicited at the time of its proposal.

In addition, amendments to the Polymers and Resins I NESHAP (which some of the requirements in this final rule cross-reference that existing rule) were proposed on March 9, 1999 (63 FR 11560). Public comments were solicited by the EPA regarding how those proposed amendments, and the incorporation of concepts in the Polymers and Resins proposed rule into subpart PPP, would affect sources subject to the Polyether Polyols final rule.

To provide interested individuals the opportunity for oral presentation of data, views, or arguments concerning the proposed standards, a public hearing was offered at proposal of these requirements. However, the public did not request a hearing and, therefore, one was not held. The public comment period for the proposed rule was from September 4, 1997 to December 3, 1997. A total of 11 comment letters were received during the public comment period, and 4 comment letters were received after the end of the public comment period. Commenters included industry representatives and trade organizations. The comments were carefully considered, and changes were made in the promulgated standards when determined by the EPA to be appropriate. A detailed discussion of these comments and responses can be found in the Basis and Purpose Document for Final Standards, which is referenced in Section V of this preamble and serves as the basis for the revisions that have been made to these standards between proposal and promulgation. Section V of this preamble discusses some of the major changes made to the proposed standards.

III. Summary of Promulgated Standards

This section provides a summary of the final standards contained in subpart PPP. The full regulatory text is printed in today's final rule and is also available in Docket No. A-96-38, directly from the EPA, or from the Technology Transfer Network (TTN) on the EPA's electronic bulletin boards. More information on how to obtain a copy of the proposed regulation is provided at the beginning of the **SUPPLEMENTARY INFORMATION** section of this document.

A. Affected Sources

For this final rule, an affected source is defined as each group of one or more polyether polyols manufacturing process units (PMPUs) that is located at a plant site that is a major source. Polyether polyols are defined as the products formed by the reaction of EO, PO, or other cyclic ethers with compounds having one or more reactive hydrogens (i.e., a hydrogen atom bonded to nitrogen, sulfur, oxygen, phosphorous, etc.) to form polyethers (i.e., compounds with two or more ether bonds). The definition of "polyether polyol" excludes hydroxy ethyl cellulose and materials regulated under the Hazardous Organics NESHAP (HON), such as glycols and glycol ethers.

An existing affected source is any affected source that is not a new affected source. A new affected source can be created by one of four ways. If a plant site with an existing polyols-affected source adds one or more new PMPUs, the added group of one or more new PMPUs is a new affected source if the added group of one or more new PMPUs has the potential to emit more than 10 tons/yr (9.1 Mg/yr) of any one HAP or 25 tons/yr (22.7 Mg/yr) of all HAP. In this situation, the plant site would have an existing affected source and a new affected source. Each subsequent set of one or more added PMPUs with potential HAP emissions above the 10/25 levels cited above would be a separate new affected source.

New affected sources are also created when one or more PMPUs are constructed at a major source plant site where polyether polyols were not previously produced (with no consideration of the potential HAP emissions from the PMPU). Another instance where a new affected source is created is if one or more PMPUs are constructed at a new plant site (i.e., green field site) that will be a major source. The final manner in which a new affected source is created is when

an existing affected source undergoes reconstruction.

Affected sources covered by the promulgated rule emit a variety of HAP from several different types of emission points. The most significant emissions are of the following HAP: EO, PO, hexane, and toluene. These final standards regulate emissions of these compounds, as well as all other organic HAP that are emitted during the production of polyether polyols.

Emissions from the following types of emission points (i.e., emission source types) are being covered by the promulgated rule: storage vessels, process vents, heat exchange systems, equipment leaks, and wastewater operations. Tables 1 and 2 summarize the level of control for existing and new affected sources, respectively, for each of these types of emission points. Where the applicability criteria and required level of control are the same as the HON

(40 CFR Part 63, subparts F, G, and H), this is indicated in Tables 1 and 2 as "HON." "Epoxides," in Tables 1 and 2, refer to EO and PO. "Nonepoxide organic HAP" refers to organic HAP other than EO and PO that are used in the polyether polyols production process. The following sections describe these standards in more detail, by emission source type.

TABLE 1.—SUMMARY OF LEVEL OF THE STANDARDS FOR EXISTING AFFECTED SOURCES

	Emission sources	Storage			Waste-water	Heat exch. syst.	Equip. leaks
		Process vents					
Polyether Polyols made with tetrahydro-furan.	HON	HON			HON	HON	HON.
		Epoxide emissions	Nonepoxide organic HAP emissions from making or modifying product	Nonepoxide organic HAP in catalyst extraction			
Polyether Polyols made with epoxides.	HON	98 percent aggregate emission reduction; or flare emissions from all vents; or maintain outlet conc. ≤ 20 ppmv; or maintain emiss. factor $< 1.69 \times 10^{-2}$ kg epox./Mg product.	Group 1 combination of process vents from batch unit operations: 90 percent aggregate emission reduction; or flare emissions from all vents.. Group 1 process vents from continuous unit operations: 98 percent emission reduction; or flare emissions.	90 percent aggregate emission reduction; or flare emissions from all vents.	HON	HON	HON.

TABLE 2.—SUMMARY OF LEVEL OF THE STANDARDS FOR NEW AFFECTED SOURCES

	Emission sources				Heat exch. syst.	Equip. leaks
	Storage	Process vents		Waste- water		
Polyether Polyols made with tetrahydro-furan.	Existing source HON.	HON		Exist. source HON.	HON	HON.
		Epoxide emissions	Nonepoxide organic HAP emissions from making or modifying product	Nonepoxide or- ganic HAP in cat- alyst extraction		
Polyether Polyols made with epoxides.	Existing source HON.	99.9 percent ag- gregate emis- sion reduction; or maintain out- let conc. ≤ 20 ppmv; or main- tain emiss. fac- tor < 4.43 × 10 ⁻³ kg epox./ Mg product.	Group 1 combination of process vents from batch unit operations: 90 per- cent aggregate emission reduction; or flare emis- sions from all vents.. Group 1 process vents from continuous unit oper- ations: 98 percent emis- sion reduction; or flare emissions..	90 percent aggre- gate emission reduction; or flare emissions from all vents.	Exist. source HON.	HON.....

B. Storage Vessels

For polyether polyols made with either epoxides or THF, the storage vessel requirements at new and existing

affected sources are nearly identical to the HON storage vessel requirements in subpart G for existing sources. The final rule specifies procedures for determining whether a storage vessel is

assigned to a PMPU. Group 1 storage vessels require control, while Group 2 storage vessels do not. If a storage vessel has a capacity below 75 cubic meters, it is Group 2. For vessels with capacities

between 75 and 151 cubic meters, they are Group 1 if the vapor pressure of the liquid being stored is 13.1 kilopascals or greater. Storage vessels with capacities greater than 151 cubic meters are Group 1 if the vapor pressure of the liquid being stored is 5.2 kilopascals or greater.

The storage vessel provisions require that one of the following control systems be applied to Group 1 storage vessels: (1) An internal floating roof with proper seals and fittings; (2) an external floating roof with proper seals and fittings; (3) an external floating roof converted to an internal floating roof with proper seals and fittings; or (4) a closed vent system with a 95 percent efficient combustion, recovery, or recapture device. The storage vessel provisions give details on the types of seals and fittings required. Monitoring and compliance provisions include periodic visual inspections of vessels, roof seals, and fittings, as well as internal inspections. If a closed vent system and combustion, recovery, or recapture device is used, the owner or operator must establish appropriate monitoring procedures. Reports and records of inspections, repairs, and other information necessary to determine compliance are also required by the storage vessel provisions.

C. Process Vents

There are separate process vent provisions for affected sources that produce polyether polyols using epoxide reactants and affected sources that produce polyether polyols using THF. The control requirements for each type of affected source are discussed below, followed by a discussion of the monitoring, reporting, and recordkeeping provisions.

1. Polyether Polyols That Use Epoxides as a Reactant

For the polyether polyols that use epoxides as a reactant, the process vent provisions are separated into three groups that are based on the function of the organic HAP in the production process. These groups are: (1) Epoxide (i.e., EO and PO) emissions resulting from the use of these chemicals as reactants; (2) emissions of organic HAP other than EO or PO (i.e., "nonepoxide organic HAP") resulting from their use in making or modifying the polyether polyol product; and (3) emissions of nonepoxide organic HAP resulting from their use in catalyst extraction.

a. Requirements for epoxide emissions. The existing source requirement for epoxide emissions from process vents is to reduce epoxide emissions by 98 weight-percent. For new sources, this requirement is 99.9

weight-percent. This is an aggregated percent reduction applied to all process vents that emit epoxides in the PMPU. Therefore, the owner or operator has the flexibility to select which vents to control, provided that the overall epoxide emission reduction from the PMPU is equal to, or greater than, the required efficiency.

In addition to using a combustion, recovery, or recapture device to achieve the 98 percent reduction (or 99.9 percent for new sources), the final rule allows the use of "extended cookout" (ECO) as a means of reducing emissions by the required percentage. This pollution prevention technique reduces emissions by extending the time of reaction, thus leaving less unreacted epoxides to be emitted downstream.

Instead of complying with the 98 (or 99.9) weight-percent reduction limitation, an owner or operator may comply by demonstrating that each outlet stream has a concentration of 20 parts per million by volume (ppmv) epoxide or total organic compound (TOC). This option is available for existing and new affected sources, but only if a combustion, recovery, or recapture device is used.

As another alternative to the 98 percent emission reduction, owners or operators of existing affected sources may maintain an epoxide emission factor from the PMPU of no more than 1.69×10^{-2} kilograms of epoxide emissions per megagram of product made (kg/Mg), or 1.69×10^{-2} pounds of epoxide emissions per 1,000 pounds of product made (lb/1000 lb). The corresponding emission factor for new affected sources is 4.43×10^{-3} kg/Mg (4.43×10^{-3} lb/1000 lb). Compliance with this alternative limitation is achieved by developing and following an epoxide annual emissions plan, which must include provisions for the monitoring of the process and any combustion, recovery, or recapture device parameters to demonstrate continuous compliance with the emission limitation.

Finally, for affected existing sources, if a flare is used to reduce epoxide HAP emissions from all process vents in the PMPU, then a demonstration of 98 percent epoxide emission reduction is not required. If an owner or operator of an new affected source wants to use only a flare, a demonstration that the flare will achieve 99.9 percent epoxide emission reduction is required.

An owner or operator can also choose to use a combination of the percent reduction, 20 ppmv, and flare compliance options discussed above in a single PMPU.

b. Requirements for emissions resulting from the use of nonepoxide organic HAP to make or modify the product. For nonepoxide organic HAP emissions that result from the use of nonepoxide organic HAP to make or modify the product, the final rule uses a "group" approach, where those vents that are classified as Group 1 are required to be controlled. This provision only applies if a nonepoxide organic HAP is used to make or modify the product.

In many instances, the process vent stream containing these nonepoxide organic HAP will also contain epoxides. The combustion, recovery, or recapture device used to comply with the epoxide emission provisions discussed above may also reduce nonepoxide emissions. It is for this reason that the final rule requires that the group determination for nonepoxide organic HAP emissions from making or modifying the product be conducted after the emissions exit the epoxide combustion, recovery, or recapture device (or after the ECO). Therefore, any nonepoxide emission reduction that is coincidentally achieved in the epoxide combustion, recovery, or recapture device will impact whether the process vent is classified as Group 1.

The group determination approach for process vents from batch unit operations differs from that for process vents from continuous unit operations. Each approach is discussed below.

For process vents from batch unit operations, the approach is to determine if the collection of process vents in each PMPU that is associated with the use of nonepoxide organic HAP to make or modify the product is Group 1 or Group 2. If the combination of batch process vents is determined to be Group 1, the aggregate nonepoxide organic HAP emissions are required to be reduced by 90 weight-percent. As with the epoxide percent emission reduction requirement, this requirement is on an aggregated basis. Therefore, the owner or operator has the flexibility to select which vents to control, provided that the overall nonepoxide emission reduction from the PMPU is equal to, or greater than, 90 weight-percent. If a flare is used to reduce these nonepoxide organic HAP emissions from all process vents associated with the use of a nonepoxide organic HAP to make or modify the product, then a demonstration of 90 weight-percent emission reduction is not required. These requirements are the same for new and existing affected sources.

The group status for the combination of batch vents in a PMPU is determined by calculating the annual emissions

from all of the applicable vents. If the total nonoxide organic HAP emissions are less than 11,800 kilograms per year (26,000 pounds per year), then the collection of vents is classified as Group 2, and no control is required. If the emissions are greater than 11,800 kilograms per year (26,000 pounds per year), they are used to calculate a "cut-off" flow rate. This cutoff flow rate is then compared to the actual combined annual average flow rate for all the vents. If the actual combined annual average flow rate is less than the cutoff flow rate, the group of vents is Group 1.

For process vents from continuous unit operations, the approach is to determine if each process vent in the PMPU that is associated with the use of nonoxide organic HAP to make or modify the product is Group 1. If a continuous process vent is determined to be Group 1, the nonoxide organic HAP emissions are required to be reduced by using a flare or by 98 weight-percent. As with batch vents, these requirements are the same for new and existing affected sources.

A continuous process vent is Group 1 if it has a flow rate greater than or equal to 0.005 standard cubic meters per minute, a HAP concentration greater than or equal to 50 ppmv, and a total resource effectiveness (TRE) index value less than or equal to 1.0. The final rule directly refers to the HON TRE equation in subpart G.

c. *Requirements for nonoxide organic HAP emissions from catalyst extraction.* This provision only applies if a nonoxide organic HAP is used in the catalyst extraction process. The promulgated process vent provisions require the owner or operator of existing affected sources using epoxides to reduce the aggregate total nonoxide organic HAP emissions by 90 weight-percent from process vents associated with catalyst extraction at new or existing affected sources. This is also an aggregate emission reduction requirement for the PMPU. If a flare is used to reduce these nonoxide organic HAP emissions from all process vents associated with catalyst extraction, then a demonstration of 90 weight-percent emission reduction is not required.

Uncontrolled nonoxide organic HAP emissions from continuous or batch catalyst extraction unit operations are measured after the exit from the continuous or batch unit operation, but before any recovery devices; and controlled emissions are measured at the outlet of the combustion, recovery, or recapture device. Primary condensers operating as reflux condensers are considered to be part of the unit

operation and are not considered to be recovery devices.

2. Polyether Polyols That Use THF as a Reactant

The promulgated rule directly references the HON process vent provisions in subpart G for polyether polyols processes that use THF as a reactant. These provisions require a Group 1/Group 2 determination. A group 1 process vent is one with a flow rate greater than or equal to 0.005 standard cubic meters per minute, a HAP concentration greater than or equal to 50 ppmv, and a TRE less than or equal to 1.0. Owners or operators of Group 1 process vents at THF facilities are required to either reduce organic HAP emissions by 98 weight-percent, maintain an outlet concentration of 20 ppmv, or route emissions to a flare.

3. Monitoring, Reporting, and Recordkeeping Provisions for Process Vents

Monitoring, reporting, and recordkeeping provisions necessary to demonstrate compliance are also included in the process vent provisions. Compliance with the monitoring provisions is based on parametric monitoring of the combustion, recovery, or recapture device, or monitoring of the process parameters if ECO is used to control epoxide emissions.

D. Wastewater Operations

The final wastewater provisions in subpart PPP refer directly to the HON wastewater provisions. Water that is discarded from a PMPU is considered to be wastewater if the water has an annual average concentration of organic HAP of 5 parts per million by weight (ppmw) or greater and an annual average flow rate of 0.02 liters per minute (0.0053 gallons per minute) or greater, or an annual average concentration of organic HAP of at least 10,000 ppmw at any flow rate. There are two types of wastewater: maintenance wastewater and process wastewater. The requirements for each type of wastewater are discussed below.

1. Maintenance Wastewater

The final rule directly incorporates the HON requirements in § 63.105 of subpart F for maintenance wastewater. The provisions of § 63.105 require owners or operators to prepare a description of procedures that will be used to manage HAP-containing wastewater created during maintenance activities and to implement these procedures.

2. Process Wastewater

The final rule also directly incorporates HON provisions for process wastewater, which are contained in § 63.132 through § 63.149 of subpart G. These provisions employ a Group 1/Group 2 approach with Group 1 process wastewater streams requiring control. However, subpart PPP does not incorporate the HON new source Group 1 process wastewater stream criteria. That is, the Group 1 process wastewater stream criteria for new and existing affected sources are equivalent to the HON existing source Group 1 criteria. These criteria are as follows. A Group 1 wastewater stream is a wastewater stream with a total annual average concentration of organic HAP greater than or equal to 10,000 ppmw at any flow rate, or a total annual average concentration greater than or equal to 1,000 ppmw and an annual average flow rate greater than or equal to 10 liters per minute (2.6 gallons per minute).

An owner or operator may determine the organic HAP concentration and flow rate of wastewater streams either (1) at the point of determination (where the wastewater exits the PMPU); or (2) downstream of the point of determination, provided that adjustments are made for changes that occur to the stream from the point of determination to the downstream location. Both the applicability determination and the Group 1/Group 2 determination must reflect the wastewater characteristics before losses due to volatilization, a concentration differential due to dilution, or a change in organic HAP concentration or flow rate due to treatment.

There are requirements for wastewater tanks, surface impoundments, containers, individual drain systems, and oil/water separators that handle Group 1 wastewater streams. These provisions require either that specified measures be undertaken to suppress organic emissions from the wastewater stream, or that emissions be vented to a control device.

There are also treatment requirements for Group 1 wastewater streams to reduce the organic HAP content in the wastewater prior to placement in units without air emissions controls. There are a number of treatment options for Group 1 wastewater streams. These include reducing the total concentration of organic HAP to a level less than 50 ppmw, treating the stream in a steam stripper meeting specified design criteria, reducing the organic HAP mass flow rate by 99 percent (or by the fraction removed, or F_r , value for the HAP), achieving the required mass

removal (RMR) for the HAP, achieve a RMR of 95 percent in a biological treatment process, or treating the stream in a unit complying with specified Resource Conservation and Recovery Act (RCRA) requirements. Also, there is an exemption if the total source organic HAP mass flow rate is less than 1 Mg/yr (1.1 tons/yr).

The rule requires that inspections be conducted on waste management units. It also requires that design steam strippers and biological treatment units be monitored, along with control devices on waste management units. The rule also contains extensive provisions outlining how to demonstrate compliance, including reporting and recordkeeping provisions. For more information regarding the wastewater provisions in this final rule, consult the January 17, 1997 amendments to the HON (62 FR 2722).

E. Equipment Leaks

The equipment leak provisions in the promulgated rule refer directly to the HON requirements contained in 40 CFR part 63, subpart H. These final standards apply to equipment in organic HAP service for 300 or more hours per year that is associated with a PMPU, including valves, pumps, connectors, compressors, pressure relief devices, open-ended valves or lines, sampling connection systems, instrumentation systems, surge control vessels, bottoms receivers, and agitators. The provisions also apply to closed-vent systems and combustion, recovery, or recapture devices used to control emissions from any of the listed equipment.

The promulgated standard requires leak detection and repair (LDAR) for pumps in light liquid service and for valves in gas or light liquid service. The LDAR program involves a periodic check for organic vapor leaks with a portable instrument using Method 21 of appendix A of part 60. If leaks are found, they must be repaired within a certain period of time. These provisions contain programs where owners or operators that have demonstrated success in eliminating leaking equipment can increase the interval between leak inspections.

The final rule also requires LDAR of connectors in gas or light liquid service. The monitoring frequency for connectors is determined by the percent leaking connectors in the process unit and the consistency of performance.

Subpart H also contains standards for compressors, open-ended lines, pressure relief devices, and sampling connection systems. Compressors are required to be

controlled using a barrier-fluid seal system, by a closed vent system to a combustion, recovery, or recapture device, or must be demonstrated to have no leaks greater than 500 parts per million (ppm) HAP. Sampling connections must be a closed-purge or closed-loop system, or must be controlled using a closed vent system to a combustion, recovery, or recapture device. Agitators must either be monitored for leaks or use systems that are better designed such as dual mechanical seals. Pumps, valves, connectors, and agitators in heavy liquid service; instrumentation systems; and pressure relief devices in liquid service are subject to instrumental monitoring only if evidence of a potential leak is found through sight, sound, or smell. Instrumentation systems consist of smaller pipes and tubing that carry samples of process fluids to be analyzed to determine process operating conditions or systems for measurement of process conditions.

Surge control vessels and bottoms receivers are required to be controlled using a closed vent system vented to a combustion, recovery, or recapture device. However, the applicability of controls to surge control vessels and bottoms receivers is based on the size of the vessel and the vapor pressure of the contents. The criteria for determining whether controls are required for surge control vessels and bottoms receivers are the same as the criteria for determining whether controls are required for storage vessels.

The standards require certain records to demonstrate compliance with the standard, and the records must be retained in a readily accessible recordkeeping system. Subpart H requires that the following records be maintained for equipment that would be subject to the standards: records of testing associated with batch processes; design specifications of closed vent systems and combustion, recovery, or recapture devices; and test results from performance tests.

F. Heat Exchangers

The final standards for heat exchange systems directly refer to the heat exchange provisions listed in subpart F of the HON at § 63.104. These provisions require that the owner or operator monitor heat exchange systems for leaks and repair any leaks that are detected.

G. General Testing Requirements

Specific testing requirements related to each emission source type are

included in the applicable sections of the final rule. Section 63.1437 of the final rule addresses conditions for performance tests and compliance determination procedures for flares.

Section 63.1437 requires that performance testing be conducted during maximum operating conditions for all emissions sources except for process vents from batch unit operations. Tests for process vents from batch unit operations are to be performed at worst-case conditions.

This section limits the time frame for the maximum operating and worst-case conditions to either the 6-month period that ends 2 months before the Notification of Compliance Status is due, or the 6-month period that begins 3 months before the performance test and ends 3 months after the performance test. This section also indicates that tests should not be performed under conditions that: (1) Cause damage to equipment, (2) necessitate that product made does not meet an existing specification for sale to a customer, (3) necessitate that product made is in excess of demand, or (4) cause plant or testing personnel to be subject to unsafe conditions.

This section clarifies that a performance test is not required for flares, and requires that a compliance determination be conducted for flares in accordance with § 63.11(b) of the General Provisions.

H. Monitoring Levels and Excursions

Specific monitoring requirements related to each emission source type are included in the applicable sections of the final rule. Section 63.1438 of the final rule addresses the establishment of parameter monitoring levels and excursions.

This section specifies how parameter monitoring levels are to be established. The three methods are: (1) To establish parameter levels based exclusively on performance testing; (2) to establish parameter monitoring levels based on performance tests, supplemented by engineering assessments and/or manufacturer's recommendations; and (3) to establish parameter monitoring levels based on engineering assessments and/or manufacturer's recommendations.

This section also provides definitions of excursions and how excursions are related to compliance. Table 3 in this preamble illustrates instances that are defined as excursions.

TABLE 3.—SUMMARY OF EXCURSIONS

Emission source type	Type of excursion	Description of excursion
Storage vessels, where continuous monitoring is required	Daily average exceedance	When the daily average of a monitored parameter is above the maximum, or below the minimum, established level.
	Insufficient monitoring data	Depends on the monitoring plan.
Storage vessels, where continuous monitoring is not required.	If monitoring plan specifies monitoring a parameter, a filling period exceedance.	When the average value of one or more parameters, averaged over the duration of the filling period for the storage vessel, is above the maximum level or below the minimum level.
	If monitoring plan specifies that a value must be recorded at specific intervals, insufficient monitoring data.	When measured values are not available for at least 75 percent of the specific intervals at which parameters are to be monitored and recorded, according to the monitoring plan, during the filling period for the storage vessel.
	[See the HON]	[See the HON Requirements.]
Process wastewater streams, heat exchange systems, or equipment leaks.		
Continuous process vents using combustion, recovery, or recapture devices.	Daily average exceedance	When the daily average of a monitored parameter is above the maximum, or below the minimum, established level.
	Insufficient monitoring data	Insufficient monitoring data is when an owner or operator fails to obtain a valid hour of data for at least 75 percent of the operating hours during an operating day. Four 15-minute parameter measurements must be obtained to constitute a valid hour of data.
Batch process vents using combustion, recovery, or recapture devices	Daily average exceedance	When the daily average of a monitored parameter is above the maximum, or below the minimum, established level.
	Insufficient monitoring data	Insufficient monitoring data is when an owner or operator fails to obtain valid parameter measurements for at least 75 percent of the 15-minute periods during an operating day.
Process vents using ECO	Batch cycle parameter exceedance.	If time is monitored, when the time from the end of the epoxide feed to the end of an ECO is shorter than the minimum duration established for the product class. If reactor partial pressure is monitored, when the reactor epoxide partial pressure at the end of an ECO is above the maximum pressure established for the product class. If epoxide concentration is monitored, when the epoxide concentration in the reactor at the end of an ECO is above the maximum epoxide concentration established for the product class.

The owner or operator is allowed a certain number of "excused" excursions. In the first semiannual period, the owner or operator is allowed to excuse six excursions. This diminishes to one excused excursion for each semiannual period after the sixth semiannual period.

For each excursion that is not excused, the owner or operator is deemed to be out of compliance with the provisions of the final rule. If a condenser is used and temperature is the parameter monitored, or if another recovery or recapture device is used and organic HAP concentration is the parameter monitored, then the excursion is a violation of the emission limitation. For all other parameter monitoring situations, an excursion is a violation of the operating limit.

I. General Provisions

The final rule incorporates by reference the General Provisions in subpart A as promulgated on March 13, 1994. However, the EPA is in the process of drafting amendments to the General Provisions. After the promulgation of the amendments to the General Provisions, the amended

General Provisions will be automatically considered to be incorporated into this subpart. For that reason, as amendments are proposed for the General Provisions, owners and operators are encouraged to comment on how those amendments could potentially affect owners and operators subject to subpart PPP of part 63.

The final rule references the start-up, shutdown, and malfunction plan requirements in § 63.6(e)(3) of the General Provisions. The start-up, shutdown, and malfunction plan developed for each affected source must describe procedures for operating and maintaining the affected source during periods of start-up, shutdown, and malfunction, and must describe procedures and a program for corrective action for malfunctioning process and air pollution equipment used to comply with this subpart.

J. General Recordkeeping and Reporting Requirements

Specific recordkeeping and reporting requirements related to each emission source type are included in the applicable sections of the final rule. Section 63.1439 of the final rule

provides more general reporting, recordkeeping, and testing requirements. The following are the types of reports that must be submitted to the Administrator, as appropriate: Initial Notification, Precompliance Report, Notification of Compliance Status, Periodic Reports, and Other Reports. The requirements for each of the types of reports are summarized below.

Section 63.1434 of the final rule incorporates the reporting requirements of subpart H. The subpart H reporting requirements include an Initial Notification, a Notification of Compliance Status, and Periodic Reports. The information required by subpart H should be submitted along with the information specified in subpart PPP for the applicable report.

1. Initial Notification

For existing sources, the Initial Notification is required to be submitted June 1, 2000. For new sources, the due date is dependent on the date of initial start-up date. The Initial Notification must include the following information:

a. The name and address of the owner or operator.

b. The address (i.e., physical location) of the affected source.

c. An identification of the relevant standard, or other requirement, that is the basis of the notification and the source's compliance date.

d. An identification of the kinds of emission points within the affected source.

e. A statement of whether or not the affected source is a major source.

2. Precompliance Report

Affected sources making one or more of the following requests must submit a Precompliance Report 1 year before their compliance date: (1) Requesting an extension for compliance; (2) requesting approval to use alternative monitoring parameters, alternative continuous monitoring and recordkeeping, or alternative controls; (3) requesting approval to incorporate a provision for ceasing to collect monitoring data, during a start-up, shutdown, or malfunction, into the start-up, shutdown, and malfunction plan, when that monitoring equipment would be damaged if it did not cease to collect monitoring data; or (4) requesting to establish parameter monitoring levels based on engineering assessments and manufacturing recommendations. Supplements to the Precompliance Report may also be submitted after the due date of the Precompliance Report, if the owner or operator finds it necessary to clarify or modify information previously submitted under the original Precompliance Report. In addition, the final rule provides that, unless the Administrator has objected to a request made in the Precompliance Report or a supplement to the Precompliance Report within 45 days of its receipt, the request shall be automatically deemed "approved."

An owner or operator who submits an operating permit application may submit the information specified in the Precompliance Report, as applicable, with the operating permit application, in addition to any other information required to be included in the operating permit application.

3. Notification of Compliance Status

The Notification of Compliance Status is required to be submitted within 150 days after the source's compliance date. The information required to show compliance for each emission point must be included in the Notification of Compliance Status. Such information includes, but is not limited to, results of any performance tests, design analyses, and parameter monitoring levels for each emission point and supporting data for the designated level.

4. Periodic Reports

Generally, Periodic Reports are required to be submitted semiannually. However, if a combustion, recovery, or recapture device for a particular emission point or process section has more than the excused number of excursions, or if the regulatory authority requests it of the owner or operator, quarterly reports may be required for 1 year for that emission point. After 1 year, semiannual reporting may be resumed, if no additional excursions occur.

The Periodic Report must report when excursions occur, as well as results of any performance tests conducted during the reporting period. For equipment leaks, Periodic Reports must contain summary information on the LDAR program, changes in monitoring frequency or monitoring alternatives, and/or initiation of a quality improvement program (QIP).

5. Other Reports

Other reports required under the final rule include: (1) Reports of process changes that change the compliance status of process vents; (2) reports of changes to the primary product of a PMPU or process unit that becomes a PMPU as a result of the change; (3) reports of the addition of a new PMPU or emission point (other than an equipment leak); (4) reports of reconstruction or new source construction; (5) requests for approval to use alternative monitoring parameters, alternative continuous monitoring or recordkeeping, or alternative controls; and (5) requests for extensions of the allowable repair period and notifications of inspections for storage vessels and wastewater.

IV. Control Technology Basis of the Standard

The rule requirements are based on the MACT floor level of control for the following emission types for polyether polyols made with epoxides: storage vessels, process vent epoxide emissions, process vent nonepoxide emissions from catalyst extraction, and equipment leaks. The Agency selected requirements more stringent than the floor for wastewater emissions and for nonepoxide organic HAP process vent emissions from making or modifying the product. For polyether polyols made with THF, the Agency selected requirements more stringent than the MACT floor level of control for all of the emission types (i.e., storage, process vent emissions, equipment leaks and wastewater). These MACT control levels

have not changed since the September 4, 1997 proposal (62 FR 46804).

The HON control basis establishes MACT for both polyether polyols made with epoxides and polyether polyols made with THF, although for polyether polyols made with THF, the HON control level is above the floor. The only exception to this HON control basis is where control levels established in the "Control of Volatile Organic Compound Emissions From Batch Processes—Alternative Control Techniques Information Document," Document No. EPA-453/R-94-020 (i.e., the Batch ACT), are the above the floor control basis for process vents from batch unit operations.

The HON level of control establishes the basis for MACT for this standard because the continuous unit operations in polyether polyols manufacturing plants are fairly similar to the process units at sources that are subject to the HON. Given the similarity of PMPUs to process units subject to the HON and the fact that the HON level of control had received extensive evaluation during the development of the HON, the EPA concluded that the cost and other impacts of the HON levels were representative of those that could be expected for the polyether polyols production industry. The estimated cost effectiveness for the Batch ACT was determined to be comparable to the cost effectiveness of the HON continuous vent provisions and is expected to be comparable to the cost effectiveness of the process vent requirements in this final rule.

V. Summary of Impacts

The impacts discussed in this section are presented relative to a baseline reflecting the level of control in the absence of the rule. See the baseline emissions memorandum in the Supplementary Information Document for Proposed Standards (EPA-453/R-97-010c, May 1997) for a detailed discussion of this approach. The impacts for existing sources were estimated by bringing each facility's control level up to the levels of the standards. According to industry representatives, no new sources were projected to be constructed in the next 5 years. Therefore, no new source impacts were estimated.

A. Air Impacts

These promulgated standards are estimated to reduce HAP emissions from all existing sources of polyether polyols by 1,810 Mg/yr (2,000 tons/yr). This represents a 47 percent reduction from the baseline level of emissions. This reduction is relatively low, since

several affected facilities have already installed stringent pollution controls in response to State air toxics rules.

B. Other Environmental Impacts

All the HAP being reduced by this regulation are also volatile organic compounds (VOC); thus, a reduction of 1,810 Mg/yr (2,000 tons/yr) of VOC is anticipated as a result of implementing these standards. However, emissions of other criteria pollutants are estimated to increase by 80 Mg/yr (88 tons/yr) as a result of operating process vent and wastewater emission control systems to comply with the standards. Therefore, the net reduction in criteria pollutants resulting from this regulation is anticipated to be 1,730 Mg/yr (1,900 tons/yr).

C. Energy Impacts

The total nationwide energy demands that will result from implementing the process vent and wastewater requirements are around 4.7×10^{10} British thermal units annually (Btu/yr).

D. Cost Impacts

Cost impacts include the capital costs of new control equipment, the cost of energy (supplemental fuel, steam, and electricity) required to operate control equipment, operation and maintenance costs, and the cost savings generated by reducing the loss of valuable raw materials in the form of emissions. Also, cost impacts include the costs of monitoring, recordkeeping, and reporting associated with these promulgated standards.

Under the final rule, it is estimated that total capital costs for existing sources will be \$10.2 million (August 1996 dollars) and that total annual costs will be \$7.7 million per year. The actual compliance cost impacts of the final rule could be less than estimated, due to the potential to use common combustion, recovery, or recapture devices, upgrade existing combustion, recovery, or recapture devices, use other less expensive control technologies, or implement pollution prevention. Because the effect of such practices is highly site-specific and data were unavailable to estimate how often the lower cost compliance practices could be utilized, it is not possible to quantify the amount by which actual compliance costs will be reduced.

E. Economic Impacts

The goal of the economic impact analysis (EPA Document No. EPA-453/R-97-013, May 1997) is to estimate the market response of the polyether polyols industry to the emission standards and determine any adverse

effects that may result from the regulation. Approximately 78 facilities owned by 36 different companies producing polyether polyols domestically may potentially be affected by the regulation.

Since the nationwide annualized cost of this regulation of \$7.7 million represents approximately 0.06 percent of the estimated 1996 sales revenues for domestically produced polyether polyols, the EPA determined that the regulation is not likely to have a significant economic impact on this industry as a whole. For this reason, a streamlined economic analysis was performed to determine facility-specific impacts. Facility-specific impacts were examined by calculating the ratio of the estimated annualized costs of controls for each facility to the estimated revenues per facility (i.e., cost-to-sales ratio) to assess the likelihood of facility closures and employment impacts. A cost-to-sales ratio exceeding 1 percent was determined to be an initial indicator of the potential for a significant facility impact.

Costs exceeded 1 percent of sales for only one facility out of the 78 facilities affected by the regulation. This firm is estimated to potentially experience a cost-to-sales ratio of 1.5 percent. Based on an analysis of the costs of compliance compared to facility and company financial data for this firm, the EPA concluded that it was unlikely that the company owning this facility would choose to close it. The company is financially robust and the costs are a small share of the total company sales and net income. Therefore, the facility-specific impacts are not considered to be significant for any facility affected by this promulgated regulation. The generally small scale of the impacts suggests that there will also be no significant impacts on markets for the products made using polyether polyols, such as polyurethanes. For more information, consult the economic impact report entitled "Economic Analysis Of Air Pollution Regulations: Polyether Polyols Production, May 1997" in the docket for today's rule.

VI. Significant Comments and Changes to the Proposed Standards

Comments on the proposed rule were received from industry and trade organizations. A detailed discussion of these comments and responses can be found in the Basis and Purpose Document for the Final Standards (EPA-453/R-99-002b).

There were a number of comments submitted that were considered to be significant by the EPA. These significant comments covered many aspects of the

rule. The Agency's review of the significant issues raised by the commenters resulted in changes to the proposed rule in many instances. This section summarizes the significant comments raised and provides the EPA's response.

A. Primary Product Determination

One commenter expressed confusion over aspects of the primary product determination in the proposed rule, particularly the provision that specified how a non-PMPU could become a PMPU after the initial determination based on actual production. The EPA agrees that this portion of the proposed primary product provisions needed clarification. In fact, the EPA conducted an overall review of the proposed primary product provisions, and concluded that several structural and clarifying changes were needed. In addition, the EPA noted some potential situations that could occur that were not addressed in the proposed provisions.

The specific concern raised by the commenter was addressed by clearly stipulating how owners or operators of non-PMPUs are to determine whether they have become subject to the rule after the initial primary product determination. The final rule specifies that non-PMPUs that have produced polyether polyols in the past 5 years are to annually re-determine the primary product using actual production values. The rule also specifies how a non-PMPU process unit is to determine the primary product if it has not produced polyether polyols in the past 5 years, but plans to produce polyether polyols in the future.

The proposed provisions required that initial primary product determination be based on a 5-year prediction of anticipated production by the owner or operator. The EPA is aware that, in some instances, the owner or operator may not be able to make such a prediction. Clarifications and/or revisions were made to the primary product provisions to address this situation. First, in the initial determination, the time frame for which production must be anticipated for new process units was changed to 1 year. Also, provisions were added for owners or operators that cannot determine their primary product based on anticipated 5-year (or 1-year) production. To summarize, if polyether polyols have been produced in an existing process unit for 5 percent or greater of the time since September 4, 1997, then the process unit is designated as a PMPU and is subject to the existing source provisions of subpart PPP. For new process units, if polyether polyols will be produced at any time during the first

year of production, then the unit is a PMPU and is subject to the new source provisions of subpart PPP.

In addition to the provisions discussed above that specify how non-PMPUs are to determine if they become PMPUs (i.e., subject to subpart PPP), the EPA has also clarified and expanded the provisions that specify how the PMPU designation can be removed from a process unit. The first case, which is retained from the proposed rule, is where production of polyether polyols ceases and the owner or operator does not anticipate the production of polyether polyols in the future. Also, the EPA has added provisions that specify procedures for a primary product reevaluation based on actual production. If an owner or operator of a PMPU finds that another product has been produced for a greater amount of time than polyether polyols over a specified time period (previous 5 years or since beginning the production of polyether polyols), then the PMPU designation could possibly be removed. The stipulation is that production of the "new" primary product must make the process unit subject to another part 63 NESHAP. If the new primary product is not subject to another part 63 NESHAP and polyether polyols continue to be produced, the process unit continues to be classified as a PMPU and continues to be subject to subpart PPP.

The EPA has also added provisions addressing the determination of the primary product in situations where two or more products are produced simultaneously. Also, clarifications were made in the reporting and recordkeeping requirements associated with the primary product determination. A more in-depth explanation of the primary product determination procedures in § 63.1420(e) can be found in the preamble to the proposed amendments to the Polymers and Resins I and IV NESHAP (64 FR 11563). The primary product provisions in § 63.1420(e) mirror those proposed in §§ 63.480(f) and 63.1310(f).

B. Definition of "Polyether Polyol"

In the proposed rule a "Polyether Polyol" was defined as:

* * * a compound formed through the polymerization of ethylene oxide (EO) or propylene oxide (PO) or other cyclic ethers with compounds having one or more reactive hydrogens (i.e., a hydrogen atom bonded to nitrogen, oxygen, phosphorus, sulfur, etc.) to form polyethers. This definition excludes materials regulated under the HON, such as glycols and glycol ethers.

One commenter requested that the EPA revise the definition of "polyether

polyol" to clarify that the production of typical alkanolamines, which lack repeating ether units, is not regulated under subpart PPP. Another commenter explained that hydroxy ethyl cellulose is formed through the reaction of EO on cellulose polymer molecules. This commenter requested that the EPA clarify whether hydroxy ethyl cellulose manufacturing is included or excluded from the definition of "polyether polyol."

The EPA has revised the definition of "polyether polyol" in the final rule addressing both of these issues by excluding the production of hydroxy ethyl cellulose and by specifying that a polyether must have two or more ether bonds.

C. Definition of "Process Vent"

The definition of "process vent" in the proposed rule did not include any cutoffs based on the flow or HAP concentration of the process vent. One commenter was concerned that the definition of "process vent" did not have a de minimis cutoff, as does the definition of "process vent" in the HON. The cutoff suggested by the commenter (0.005 weight-percent total organic HAP) has been incorporated into the final definition of a process vent, for process vents from continuous unit operations. This decision was based on the fact that the EPA considers it to be impractical to impose requirements for process vent streams with such low HAP concentrations (less than 0.005 weight percent organic HAP). For similar reasons, a de minimis cutoff for process vents from batch unit operations was also added in the final rule. In the Polymers and Resins I and IV NESHAP, the batch process vent definition contains a de minimis cutoff of 225 kg/yr uncontrolled HAP emissions. The EPA believes that this level is also an appropriate de minimis level for process vents from batch unit operations in the polyether polyols industry.

D. Outlet Concentration Limit as an Alternative Epoxide Process Vent Emission Limit for New Sources

The proposed rule did not include a concentration limit as an alternative epoxide process vent emission limit for new sources. The preamble to the proposed rule solicited comments on this subject, to which four commenters responded. All four recommended a 20 ppmv alternative concentration limit. The commenters indicated that the preambles for the New Source Performance Standards for VOC Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations (40

CFR part 60, subpart NNN), and the HON (40 CFR part 63, subpart G) provided rationales for a 20 ppmv limitation that also are applicable to the polyether polyols rule.

In subpart NNN's preamble (48 FR 48932, October 21, 1983), the EPA stated that the outlet concentration of 20 ppmv was established based on kinetic calculations of incinerators. It was demonstrated that, at a given temperature and residence time, a stream with a low inlet concentration could not demonstrate an outlet concentration below 20 ppmv. In the preamble to the proposed amendments to the HON (61 FR 43698, August 26, 1996), the EPA expanded the application of this lower bound concentration performance standard to control/recovery devices other than incinerators. In the HON preamble, the EPA explained that recovery devices are designed to typically reduce emissions to the same outlet concentration level given a relatively wide range of inlet concentrations. When the inlet concentration is substantially below the design maximum leading conditions (and begins to approach the residual level in the outlet stream), the recovery device efficiency will decrease.

The EPA agrees that the rationales for the 20 ppmv concentration limit provided in the preambles discussed above are also applicable to subpart PPP. Further, the technological limitations that form the basis for this alternative 20 ppmv limit are applicable to combustion, recovery, and recapture devices that may be used at existing affected sources or new affected sources. Therefore, the EPA believes it is appropriate to also allow this alternative for new sources.

Therefore, the final rule contains an alternative concentration limit of 20 ppmv for both new and existing sources. This concentration is measured at the outlet of the combustion, recovery, or recapture device.

Another commenter advocated that the alternative 20 ppmv concentration limit should apply more broadly to process vents that do not utilize a combustion, recovery, or recapture device to reduce epoxide emissions. The examples provided by the commenter included vents from equipment practicing a very long ECO or vents from equipment where the epoxide content is very low and emissions are very small.

As discussed above, the lower outlet concentration limit recognizes that there is a lower outlet concentration boundary, below which combustion, recapture and control devices cannot achieve. The EPA understands that the outlet concentration after ECO may be

as low as that after a combustion, recovery, or recapture device. However, this is not based on technological limitations of ECO, as is the basis for the 20 ppmv concentration limit for combustion, recovery, and recapture devices. Therefore, the EPA believes that allowing the 20 ppmv concentration limit for ECO is not appropriate.

Further, the EPA does not believe that it is appropriate to use this alternative concentration requirement as a de minimis cutoff for vents where the epoxide content is very low and emissions are very small. The EPA believes that the HAP concentration and emission de minimis cutoffs in definition of the process vent (discussed above in Section V.C) adequately address these vents.

Finally, the proposed existing source concentration limit was 20 ppmv of total epoxides. Other rules, such as the HON, allow the option of determining outlet concentration limits on a TOC basis. In many instances in the polyether polyols industry, the EPA believes that all the TOC in the emission stream will be epoxides, making the TOC and epoxide concentration equivalent. In fact, if there were other TOC in the stream, compliance with a 20 ppmv TOC limit would mean that the epoxide concentration would necessarily be less than 20 ppmv. For these reasons, the EPA believes that having the alternative concentration limits based on total epoxides or TOC is appropriate for this rule. As discussed later in Section V.J, the EPA decided to allow Method 25A (which is designed to measure TOC) to determine compliance with the alternative concentration limits.

E. Flares as a Reference Control Technology

Two commenters requested that the EPA allow flares as a reference control technology for process vents at existing and new sources. The EPA agreed with the commenters that flares are an acceptable reference control technology for situations where the required organic HAP emission reduction is 98 percent or less. The final rule allows flares as a reference control technology for epoxide process vent emissions at existing sources, for Group 1 nonepoxide organic HAP process vent emissions at new and existing sources, and for nonepoxide organic HAP process vent emissions from catalyst extraction at new and existing sources. However, the data presented by the commenters do not support a destruction efficiency of 99.9 percent for flares combusting EO and PO, which is

the equivalent percent reduction efficiency for the epoxide process vent limitation for new sources. Therefore, the EPA cannot allow flares as a reference control technology for epoxide process vent emissions at new sources.

F. Group Determination on an Individual Process Vent Basis for Nonepoxide Organic HAP Emissions From Making or Modifying the Product

In addition to the use of epoxides reactants, some polyether polyol producers use organic HAP as initiators, solvents, viscosity adjusters, or in other ways to provide special properties to the final products. To address emissions of these nonepoxide organic HAP, the proposed rule contained requirements for "nonepoxide organic HAP used in making or modifying the product." To determine whether control of these nonepoxide organic HAP emissions was required, the proposed rule used a "group" applicability approach, where vents that were classified as Group 1 were required to be controlled by 90 percent. The proposed rule required that the group determination be performed on an aggregate basis. That is, the stream characteristics for all process vents from continuous unit operations within the PMPU that were associated with the use of the nonepoxide organic HAP to make or modify the product were combined and the group criteria applied to the theoretical combined stream. Similarly, the batch vent group determined was on an aggregate basis.

Two commenters raised the point that the equations and other criteria for deciding whether a vent is Group 1 or Group 2 were based on cost-effectiveness decisions related to controlling individual process vents, and that those equations were borrowed from other rules, where they were applied on an individual vent basis. The commenters requested that owners or operators have the option of making the group determinations for nonepoxide process vents on a vent-by-vent basis, rather than being required to do the group determination for the combination of all process vents.

The EPA agrees with the statement that the Group 1 criteria are essentially cost-effectiveness decisions. The group determination criteria in other MACT standards, specifically the HON (for process vents from continuous unit operations) and Polymers and Resins I and IV (for process vents from batch unit operations), are based on cost effectiveness. Prior to proposal, the EPA concluded that the cost-effectiveness based group criteria from the HON and the Polymers and Resins rules were also appropriate measures of the cost

effectiveness of controlling process vent streams at polyether polyols facilities, given the similarities in the process vent stream parameters between the affected industries. Therefore, these group determination criteria were borrowed for the proposed subpart PPP. However, the EPA does recognize that in all three of the rules cited above, the group determination is applied to individual process vents.

The EPA agrees that the TRE index approach was developed for, and has been applied to, individual vents. The EPA further agrees that applying the TRE approach to the combination of process vents from continuous unit operations in a PMPU is not appropriate without conducting an analysis to validate the equations for the combination of vents, or developing new equations. Rather than take this approach, the EPA has decided, in the final rule, to apply the Group 1 criteria for process vents from continuous unit operations that use nonepoxide organic HAP to make or modify the product to individual process vents.

For process vents from batch unit operations that use nonepoxide organic HAP to make or modify the product, the Group 1 equations are the same equations employed in the Polymers and Resins I and IV MACT standards (40 CFR part 63, subparts U and JJJ, respectively). The EPA agrees with the commenters that in these polymers and resins standards, the Group criteria are applied to individual vents. However, unlike the TRE for process vents from continuous unit operations, the group determination approach that is used in subparts U, JJJ, and PPP, was originally developed to be used for either individual vents or the combination of vents.

The original source of the batch vent group determination approach is the Batch ACT document. On page 7-5 of that document, the EPA states "The control option requirements presented in Chapter 6 apply to (1) individual batch VOC process vents to which the annual mass emissions and average flowrate cutoffs are applied directly, and (2) aggregated VOC process vents for which a singular annual mass emission total and average flowrate cutoff value is calculated and for which the option is applied across an aggregate of sources." Therefore, for process vents from batch unit operations, the EPA disagrees with the statements that the group determination equations are being used "in a totally different context" and that there is no supporting rationale for using them. The final rule retains the requirement that the Group criteria be applied to the nonepoxide organic HAP

emissions from the combination of process vents from batch unit operations associated with the use of nonepoxide organic HAP to make or modify the product.

G. Possibility of Dual Controls for Nonepoxide Organic HAP Emissions From Making or Modifying the Product

As discussed above, the proposed rule required group determinations for the nonepoxide organic HAP process vent emissions from making or modifying the product. One commenter pointed out that the proposed rule was not clear about when and where to make this group determination. The commenter also noted that a process vent that uses a control technique for epoxides only (e.g., a scrubber or ECO) would require a second control technique for the nonepoxide organic HAP emissions.

The EPA considered the commenter's points and the options suggested by the commenter. The final rule requires that the group determination for nonepoxide organic HAP emissions be made after the stream has been controlled for the epoxide emissions. The EPA believes that this approach addresses the situation regarding the possibility of dual control. If the epoxide control device also reduces nonepoxide emissions, then that control would impact whether the vent (or group of batch vents) is Group 1. Therefore, control of nonepoxide emissions along with the epoxides will impact whether controls are required at all. If the vent (or group of vents) still has sufficient nonepoxide organic HAP emissions after the epoxide control device to satisfy the Group 1 criteria, the EPA does not believe it is unreasonable to require an additional control device to achieve the specified percent reduction of the nonepoxide emissions.

H. Worst-Case Testing Requirements

The proposed rule required that performance tests for process vents be conducted during worst-case operating conditions for the process. Four commenters requested that this requirement be deleted from the rule.

Worst-case testing requirements were not deleted from the final rule, but were revised. The EPA's reason for requiring compliance testing under worst-case conditions is so that the reduction efficiency of the control device is documented under the most challenging conditions for that control device, especially since commenters noted how difficult it is to represent a typical venting episode. The phrase "worst-case" in the proposed rule referred to the operating conditions of the process (or PMPU). The worst-case testing

requirement has been revised to require testing during the worst-case conditions with respect to the combustion, recovery, or recapture (i.e., control) device.

Presumably, the control device should function as well or better under conditions that are not as challenging. By revising the rule to require testing during the worst-case conditions with respect to the control device, continuous monitoring of operating parameters established during the test provides a reasonable measure of continuous compliance with the efficiency requirement under all conditions.

The commenters asserted that there is no obvious technological difference that would require a different approach to performance testing in this rule from other regulations that have allowed performance tests during representative operating conditions. The EPA disagrees with the commenters' rationale. The EPA believes that there are obvious technological differences from the polyether polyols industry to industries previously regulated (particularly SOCM type industries) since polyether polyols are produced on a batch basis. There is much more variance in the process vent parameters (i.e., flow and concentration) for process vent streams from batch unit operations, compared to process vents from continuous unit operations. In fact, this point was stressed by commenters. The EPA believes that it is more appropriate to compare the requirements of this rule with other rules that also regulate industries that operate on a batch basis. For this rule, the EPA not only compared the worst-case testing conditions with other rules regulating batch processes, but adopted similar language to that which is contained in the Pharmaceutical Production NESHAP (40 CFR part 63, subpart GGG).

The EPA would like to clarify a misconception related to these worst-case testing provisions. It is not the intent that production schedules be significantly altered, or that impractical scenarios be created for testing that would never occur in actual production. In other words, the EPA intends that testing be conducted for the worst-case situation that can reasonably be expected to occur during normal production. In order to clarify this intent, the EPA has added language in § 63.1438, the general testing section of the rule. This new language specifies that absolute worst case testing conditions does not include situations that could cause damage to equipment, situations that necessitate that the owner or operator make products that

do not meet an existing specification for sale to a customer, or situations that necessitate that the owner or operator make products in excess of demand.

The added language in § 63.1438 also specifies the time period in which the worst-case conditions are to be determined. This time period is either the 6-month period that ends 2 months before the Notification of Compliance Status is due, or the 6-month period that begins 3 months before the performance test and ends 3 months after the performance test. By limiting the worst-case conditions to one of these 6-month periods, the rule eliminates the need for an owner or operator to consider endless possible production scenarios, and allows them to focus on those production scenarios in the 6-month period selected by the owner or operator.

In conclusion, the EPA believes that requiring that performance tests for process vents from batch unit operations during absolute worst-case conditions is necessary to ensure that the emission limitations in the rule are achieved. The EPA also believes that, with the modifications to the rule made after proposal, that the worst-case provisions are reasonable and workable for the polyether polyols industry.

I. Engineering Calculations as an Alternative to Performance Testing

Three commenters voiced concern over the feasibility, accuracy, expense, and safety of measuring emissions from process vents from batch unit operations. The commenters stated that a performance test on these short duration, variable vents is likely to be very inaccurate and potentially dangerous. Two of the commenters recommended that a material balance based on common engineering calculations should be allowed in the final rule as a compliance demonstration option. The commenters stated that engineering calculations would provide a more accurate, less costly, and significantly safer means to verify compliance.

The EPA recognizes that there are issues related to the feasibility, accuracy, and expense of testing process vents from batch unit operations. The EPA would refer readers to Section 7.3 of the Batch ACT for a detailed discussion of these issues. However, the EPA does believe that accurate emission tests can be conducted for these process vents.

One reason that the EPA has historically required performance testing for control devices that reduce emissions from process vents, when engineering analyses are allowed for

other emission sources (such as storage vessels), is that emissions from process vents are typically significantly larger than those from other emission sources. When emissions are larger, the EPA believes that it is important that the effectiveness of the control device be accurately determined by a performance test.

Given that the magnitude of the emissions was a part of the basis for requiring performance tests, the EPA believes that it is reasonable to allow an alternative to performance testing for a process vent control device if emissions being routed to the device are comparable to the emissions that would be vented to control devices for other emission sources for which performance tests are not required. Therefore, the EPA decided that engineering assessments could be allowed in lieu of performance testing for "small" control devices that reduce HAP emissions from process vents. For the Pharmaceutical Production NESHAP, the EPA also determined that it was appropriate to allow engineering calculations as an alternative to performance testing for small control devices, where a small control device is defined as one with uncontrolled annual HAP emissions of less than 10 tons/yr (9.1 Mg/yr). The EPA believes that this level of uncontrolled emissions is also appropriate to define a small control device for the polyether polyols industry. Therefore, the final rule allows the use of a design evaluation instead of a performance test if the control device receives less than 10 tons/yr (9.1 Mg/yr) of uncontrolled HAP emissions from one or more PMPUs.

The exemption from performance testing for small control devices discussed above should help to alleviate some of the concerns raised by the commenters. Many of the concerns related to the feasibility, accuracy, and expense of testing these batch vents are due to the short duration, variable nature of batch venting episodes. The EPA believes that if a control device receives more than 10 tons/yr (9.1 Mg/yr) of uncontrolled HAP emissions, it is likely that the vent streams being routed to the device are of longer duration and less variable, thus making it easier to conduct the performance test.

However, the EPA also recognizes that the small control device exemption will not totally eliminate the concerns raised by the commenters. Therefore, the EPA made other changes to the testing requirements to address potential problems related to the testing of batch process vents, which are briefly discussed below.

Since batch emission episodes can be less than 1 hour, the rule was changed to specify that test runs be conducted for the complete duration of the batch venting episode or 1 hour, whichever is less. Other references to 1-hour periods were also removed.

The proposed rule required the use of Method 1 or 1A to select sampling sites. Commenters claimed that, in many instances, neither method would be appropriate for the batch vent streams. The rule was restructured by separating the paragraph addressing the use of Method 1 or 1A for sample or velocity traverses from the paragraphs specifying the sampling site location. In other words, if the owner or operator conducts a sample or velocity traverse, the final rule requires that Method 1 or 1A be used. However, it does not require that these methods be used to select sampling sites.

With regard to the safety issue, the final rule states that, in cases where it is imperative to limit any leakage of emissions into the work atmosphere, a sampling port with a double seal should be installed so that the probe can be inserted and removed without any leakage of exhaust gas into the work atmosphere. Further, the final rule requires that permanent sampling ports be installed at the inlet to the control device during a period when it is most convenient (or least disruptive) to shut the process down (e.g., during a scheduled maintenance outage). In addition to these specific requirements, a general requirement was added that allows owners or operators to eliminate potential testing scenarios if the test could create a situation which could cause plant or testing personnel to be subject to unsafe conditions.

In conclusion, the EPA acknowledges that issues exist with regard to the testing of emissions from batch process units. Changes have been made to the final rule to address these issues. However, the Agency maintains that numerous other industries that utilize batch processes are regulated by MACT standards, and are able to conduct performance tests. The EPA believes that the commenters did not provide sufficient rationale why the polyether polyols industry presents unique testing problems that are not present in these other industries that utilize batch processes. Therefore, the final rule requires that control devices that receive more than 10 tons/yr (9.1 Mg/yr) of uncontrolled organic HAP emissions conduct tests to demonstrate control device performance.

1. Allowable Test Methods for Control Efficiency Determinations

The proposed rule required test Method 18 (40 CFR part 60, appendix A), or any other method or data that have been validated according to Method 301 (40 CFR part 63, appendix A) for control device efficiency determinations. Three commenters noted that this requirement was inconsistent with the test methods used by the facility whose data established the new source MACT floor for epoxide process vent emissions (Method 25A of 40 CFR part 60, appendix A, was used). These commenters also discussed the expense of Method 301 validations, and noted that the proposed rule relied on Method 25A in other parts of the rule (for wastewater), and that other rules (such as the Polymers and Resins IV rule) allow Method 25A without Method 301 validation.

The EPA agrees that allowing of the use of Method 25A would provide more flexibility, and potentially provide the opportunity for less costly testing. However, the EPA believes that Method 25A should be used only after an accurate response factor has been determined. The importance of calibrating a flame ionization detector (FID) reading obtained using Method 25A with respect to a certain compound (adjustment by response factor) depends on how the Method will be used to demonstrate compliance with the standard. In general, the EPA believes that an accurate response factor is necessary in cases where Method 25A is used to demonstrate control efficiency across a device where the composition of the stream may change, or in situations where multiple components, including non-HAP VOC, are present. Because the relative proportion of organic compounds may change across the control device, appropriate response factors are needed to accurately quantify TOC at the inlet and outlet of a control device. In addition, the EPA believes that owners and operators should have the opportunity to demonstrate compliance at the outlet of a control device by measuring 20 ppmv TOC or less. Therefore, the final rule does allow the use of Method 25A under certain conditions. The following describes the choices of test methods allowed in the final rule: (1) Method 18 (40 CFR part 60, appendix A) to determine HAP concentration in any control device efficiency determination; (2) Method 25 (40 CFR part 60, appendix A) to determine total gaseous nonmethane organic concentration for control efficiency determinations in combustion devices; (3) Method 25A (40 CFR part

60, appendix A) to determine the HAP or TOC concentration for control device efficiency determinations under the conditions specified in Method 25 (40 CFR part 60, appendix A) for direct measurement of an effluent with a flame ionization detector, or in demonstrating compliance with the 20 ppmv TOC outlet standard. As an alternative, any other method or data that have been validated according to the applicable procedures in Method 301 (40 CFR part 63, appendix A) may be used.

K. Site-Specific Onset of Extended Cookout

In the proposed rule, the EPA recognized that extended cookout, or ECO, is a pollution prevention alternative used by some polyether polyols producers to reduce epoxide emissions. The proposed rule required that owners or operators of existing sources using ECO achieve the same 98 percent emission reduction (99.9 percent for new sources) that was required for owners or operators using combustion, recovery, or recapture devices. In order to demonstrate a percent efficiency, it was necessary to designate the basis, or the "uncontrolled" emissions, for assessing the percent reduction. The point where uncontrolled emissions were to be assessed, called the "onset" of the ECO, was defined in the proposed rule as the point when the epoxide concentration in the reactor liquid is equal to 25 percent of the concentration of epoxide in the liquid at the end of the epoxide feed. Commenters supported this default ECO onset, and it has been retained in the final rule.

In addition to using this "default" definition of the ECO onset, the proposed rule allowed owners and operators the option of defining the onset of the ECO for their specific process, at another point. The factors required to allow an owner or operator to set a site-specific ECO onset were the profit variable margin (the difference between variable costs (raw materials and energy) of the product and the cost of the raw material). One commenter objected to allowing the establishment of a site-specific ECO onset based on economics, stating that economics can be subjective, making it easy to demonstrate a 98-percent emission reduction.

A late submittal from one commenter challenged the first commenter's argument that the onset of ECO is subjective, noting that one of the pieces of economic information, the price of the raw material, comes from the *Chemical Market Reporter*. However, the other variable in defining the onset

of ECO, the product variable margin and the selling price, was the variable that provoked the original commenter's concern. In fact, the commenter providing the late comment stated that the product variable margin has "a much stronger correlation between product profitability and the economic onset of ECO."

Due to the subjectivity of the product variable margin, and the strong correlation between the product variable margin and the ECO onset, the EPA agreed with the first commenter. The EPA revised the final rule, removing the option of setting site-specific ECO onsets. Allowing the determination of a site-specific ECO onset is not consistent with the concept of MACT, since, given the subjectivity of this approach, it could effectively result in different levels of control for facilities in the same source category.

L. Parameter Monitoring Excursion Definitions

As a result of public comments, the EPA decided to restructure and expand the sections associated with parameter monitoring excursions in order to simplify and clarify these provisions in subpart PPP. The goal of these revisions was to include all of the necessary information about excursions and compliance in one location.

At proposal, the definitions of excursions and the statement that owners and operators were out of compliance for each parameter monitoring excursion were located in separate paragraphs. In the final rule, these concepts are combined into the same paragraph (§ 63.1438(f)).

Basically, there are two ways for excursions to occur. The first is if the average parameter value measured is above a maximum, or below a minimum, established value. The second is if insufficient monitoring data are collected. Revisions were made for both of these instances.

Provisions were added specifying that monitoring data recorded during start-ups, shutdowns, and malfunctions, and during periods of non-operation of the affected source (or portion thereof) are not to be included in any average computed. In addition, the EPA has added paragraphs that describe the periods that are not to be included when determining the period of control or recovery device operation, for purposes of determining whether sufficient monitoring data were collected. Under the new provisions, the following periods are not to be used when determining if sufficient monitoring data are available for the owner or operator to avoid having an excursion:

periods of monitoring system breakdowns, repairs, calibration checks, and zero (low-level) and high-level adjustments; start-ups; shutdowns; malfunctions; and periods of non-operation of the affected source that result in the cessation of emissions to which the monitoring applies.

M. Monitoring During Start-ups, Shutdowns, and Malfunctions

The proposed rule required that monitoring data be collected during periods of start-up, shutdown, or malfunction (SSM). Commenters requested that the EPA allow a provision for ceasing to collect monitoring data at a particular control device if operating that monitoring device during periods of SSM would damage the monitoring device. The EPA revised the final rule to allow the owner or operator to cease collecting monitoring data if the owner or operator has illustrated that the monitoring device would be damaged or destroyed if it were not shut down during the SSM period. Such a provision must be included in the Start-up, Shutdown, and Malfunction Plan. Getting such a provision in the Start-up, Shutdown, and Malfunction Plan is accomplished by submitting a request, and rationale defending the request, in the Precompliance Report or in a supplement to the Precompliance Report.

N. Process Vent Control Requirement for Epoxide Emissions From New Sources

A major issue raised in the public comments that did not result in a rule change was related to the new source limitation for process vent epoxide emissions. The proposed rule included a requirement that epoxide emissions from process vents at new affected sources be reduced by 99.9 percent or greater. Several commenters objected to this requirement, and provided numerous reasons supporting their objections. Most of these reasons were related to the facility identified by the EPA as the "best performing facility," upon which this new source limitation was based. The commenters felt that this facility was not representative of the industry, and that a separate subcategory should be created for this facility. The commenters also pointed out that there were inconsistencies between the test methods used by this best performing facility to verify their epoxide emission reduction and the test methods that were contained in the proposed rule. Further, the commenters stated that the 99.9 percent limitation would force new sources to utilize combustion technology, which would

increase criteria pollutants and create potential safety hazards.

The EPA spent a great deal of time evaluating all aspects of this issue. The EPA concluded that the available data do not support the assertion that the polyether polyols source category should be subcategorized in the manner suggested by the commenters. Also, the fact that specific test data (which were analyzed in detail by the Agency) are available for this facility and that permit conditions are in place requiring compliance at the 99.9 percent level leaves the Agency little latitude in establishing new source MACT at a less stringent level. Discussion of each of the individual points raised by commenters is provided below.

1. Subcategorization

As noted above, several commenters stated their belief that the facility that formed the basis for the 99.9 percent new source epoxide emission requirement was not representative of the industry, and that a separate subcategory should be created for this facility. The commenters discussed three characteristics of this facility to support this assertion. The first was the method of operation. The other two were the facility's size and the fact that the facility utilized two incinerators.

By "method of operation," commenters were referring to the venting method employed during the reaction phase of the production process. The commenters stated that the best performing facility is not a similar source, due to the fact that the reactor vents during the epoxide feed step of the reaction. The commenters claimed that such an operation would send high concentrations of epoxides to the control device as a continuous or semi-continuous stream, resulting in an artificially high destruction efficiency (compared to a facility that does not vent unreacted epoxides continuously).

Prior to the development of the proposed rule, the EPA understood the technical merits of this argument, but did not have sufficient data to allow a comparison of the venting and emission characteristics of this facility with other polyether polyols production facilities. Therefore, the EPA requested additional data in order to conclude whether or not subcategorization was warranted on this basis. Therefore, the preamble to the proposed rule stated this data need and specifically requested facility-specific information, in order to allow for further evaluation of this issue (62 FR 46814).

In response to this request, one commenter presented a comparison of uncontrolled and controlled epoxide emissions for a facility owned by the

commenter that does not vent during the epoxide feed (i.e., a "nonvented" facility) with the best controlled facility, which does vent during the epoxide feed (i.e., "vented"). Another commenter provided a comparison of two facilities owned by the same company that were reported to be similar in most aspects, except with respect to when the facility vents the reactor (one was vented and one was nonvented). In addition, one commenter presented a hypothetical comparison between a venting facility and a nonventing facility. All of these comparisons led to conclusions by these commenters that uncontrolled emissions at vented facilities are much higher than uncontrolled emissions at nonvented facilities, which would give vented facilities an unfair advantage in achieving a higher epoxide emission reduction.

The EPA appreciated these comparisons. However, several inconsistencies and assumptions were identified that caused the Agency to conclude that these comparisons do not, independently, provide a sufficient basis for subcategorizing the polyether polyols source category into vented and nonvented subcategories. Some of EPA's concerns with these comparisons are discussed below.

With regard to the comparison of an actual facility with the best performing facility, the EPA found that the epoxide emission estimates used for the best performing facility in the commenter's comparison were drastically different from the emission data that were directly submitted to the EPA by the best performing facility. Also, the emission data from the commenter's facility had been updated from the data originally submitted during an EPA plant site visit to that facility. The estimates provided in the comments were lower than the original estimates due to process improvements at the facility (that were not related to the method of operation). The EPA conducted a similar comparison of the uncontrolled epoxide emissions at these same two facilities using the data originally submitted to the EPA by the two companies. The results were not in accordance with those presented by the commenter. In fact, the uncontrolled emission factor for the commenter's facility was higher than the best controlled facility's factor. Clearly, the analysis of the data available to the Agency does not support this commenter's analysis.

The actual facility analysis conducted by a second commenter stated that their analysis consisted of two facilities owned by the commenter that were

"similarly sized units." However, the EPA found that the production capacity for the nonvented reactor was larger than that for the vented reactor, and the emissions were not adjusted accordingly.

Finally, the hypothetical analysis assumed that a water-cooled condenser was used at the reactor vent. The EPA believes that the use of more efficient refrigerated condensers, which would result in considerably lower uncontrolled emissions, is more representative of practice in the industry.

Given these and other inconsistencies in the facility comparisons provided by commenters, the EPA could not conclude that subcategorization was necessary.

No commenters submitted the facility-specific data that were requested in the proposal preamble. Therefore, even if the examples provided by the commenters had led to the conclusion that subcategorization was warranted, the EPA did not have sufficient facility information to allow a complete subcategorization evaluation.

However, the Agency still wanted to attempt to address the commenters' concerns on this issue. Given the lack of facility-specific data provided by the industry prior to proposal and during the public comment period, the EPA conducted a brief telephone survey to inquire specifically about the method of operation at polyether polyol production facilities. Representatives from all the facilities in the process vent database were called and asked to describe their method of venting during epoxide feed. Of the facilities for which the EPA was able to collect method-of-venting data, 24 percent (including the best-controlled facility) reported venting during the epoxide feed step, and 76 percent reported that their facilities did not vent during the epoxide feed step. Therefore, the EPA concluded that the manner of operation of the best-controlled facility was not "unique," as was claimed by several of the commenters.

The EPA then sought to determine whether the different venting modes during epoxide feed resulted in differences in the amount and pattern of emissions and the achievable degree of emission reduction. The EPA determined that using a facility's uncontrolled emission factor (mass uncontrolled epoxide emissions per mass of polyol product produced) was the best method of comparison, and calculated such a factor for each facility for which sufficient information was available. For the vented facilities, the median uncontrolled emission factor

was 0.17 lb epoxide emissions per 1000 lb of product. The mean uncontrolled emission factor was considered to be an inadequate measure of central tendency, because the data points for vented facilities had a widely varied distribution, with two orders of magnitude difference between the ends of the range. For the nonvented facilities, the median uncontrolled emission factor was 1.09. The commenters asserted that uncontrolled epoxide emissions at vented facilities are considerably higher than those at nonvented facilities. However, the results of the EPA's analysis, based on the best information available, clearly do not support this assertion, since the median uncontrolled emission factor calculated for nonvented facilities is over six times higher than the median uncontrolled emission factor for vented facilities.

In conclusion, based on all of the information available to the Agency, the EPA was unable to determine a different emission trend between the vented and nonvented groups from the data made available to the Agency between proposal and promulgation. Therefore, the EPA did not subcategorize the industry based on the method of operation.

The commenters' second rationale for supporting their claim that the best-controlled facility is not a similar source was that the facility's production capacity is many times that of other sources in the source category. It is the EPA's policy (57 FR 31576; July 16, 1992) that subcategories, or subsets of similar emission sources within a source category, be defined if technical differences in emissions characteristics, processes, control device applicability, or opportunities for pollution prevention exist within the source category. The EPA does not believe that the fact that the best-controlled facility has a larger production capacity satisfies any of these criteria. Further, since one facility in the process vent database has a capacity that is 83 percent of the best-controlled facility's capacity, the EPA also disagrees that the production capacity at the best-controlled facility is unusually large in comparison to the rest of the source category.

The third argument given by the commenters to support their claim that the best-controlled facility is not similar to other affected sources was that this facility has two incinerators, and that no other source uses incineration. The EPA disagrees with the commenters' claim that the best-controlled facility is the only source using an incinerator to control epoxide emissions, since there is another facility in the database that also

uses incineration. Further, the fact that a source has a better control than all other facilities in the source category through the use of one or more incinerators is not a sufficient basis for asserting that the source should be subcategorized. The purpose of MACT is to ensure that regulated sources meet the control standards achieved by the best performing sources in the category. Subcategorization on the basis of the control technology utilized would undermine the very concept of MACT.

In addition to the evaluation of the individual points raised by commenters, the EPA also considered whether these characteristics of the best-controlled facility collectively form a basis for subcategorization. The EPA concluded that, based on the facility-specific process, emissions, and emissions control information provided to the Agency by the polyether polyol industry, a separate subcategory should not be created solely for the best-controlled facility.

2. Inconsistency in Test Methods

An additional concern raised by two commenters was that the data from the best-controlled facility do not support the new source standard because the Agency used information from the State permit and its corresponding performance test reports as data for the best-controlled facility. The commenters claimed that these data were submitted to the State agency to demonstrate compliance with permit emission limitations for VOC, not HAP, and to document that the incinerators were meeting the required VOC destruction efficiency. They noted that there are several significant inconsistencies between the test methods used and the methods required in the proposed standards.

The EPA disagrees with the commenters' statement that the data from the best-controlled facility do not support the new source standard because the performance test was conducted to determine VOC destruction efficiency instead of epoxide emission destruction efficiency, and that the permit conditions are specific to VOC. The primary pollutant in the stream was propylene oxide (PO), and this is the pollutant for which Method 18, at the inlet of the incinerator, and Method 25A, at the outlet of the incinerator, were calibrated during the test at the best-controlled facility. Therefore, even though the test and permit cite VOC destruction efficiency, it is clear that it is the destruction of PO that was tested and regulated at the best-controlled facility. The commenters' concerns about

inconsistencies between the test reports and the proposed standards was discussed in greater detail earlier in this document, in relation to the changes to the test method requirements.

3. Increase in Criteria Pollutant Emissions

Two commenters explained that the combustion technology utilized by the best-controlled facility (which would be necessary to meet the 99.9 percent requirement) results in an increase in criteria pollutants, which were not included in EPA's MACT floor analysis, while alternative control technologies, such as scrubbers or ECO, would be expected to cause significantly lower nitrogen oxides (NO_x) emissions. The EPA is aware that incineration has secondary criteria pollutant emissions. However, MACT floor decisions, under the Clean Air Act, are based on the reduction of HAP emissions, and not on their secondary impacts. The EPA also realizes that an increase in criteria pollutants could trigger Prevention of Significant Deterioration (PSD) and/or New Source Review (NSR). The EPA has addressed this issue in previous NESHAP, by referring to a July 1, 1994 guidance memorandum issued by the EPA (available on the Technology Transfer Network; see "Pollution Control Projects (PCP) and NSR Applicability" from John S. Seitz, Director, Office of Air Quality Planning and Standards to EPA Regional Air Division Directors). In that memorandum, the EPA provided guidance for permitting authorities regarding their ability to approve the PCP exemptions (from PSD review and major NSR) for source categories other than electric utilities that use add-on controls and switching to less-polluting fuels to reduce emissions of toxic pollutants. In the July 1, 1994 guidance memorandum, the EPA specifically identified the combustion of organic toxic pollutants as an example of an add-on control that could be considered a PCP and an appropriate candidate for a case-by-case exclusion from major NSR. The EPA is alert to potential NSR conflicts and feels that this memorandum will alleviate most NSR/PSD review concerns. In the event that it will not, the EPA will attempt to create implementation flexibility on a case-by-case basis.

4. Safety Concerns

The commenters claimed that the EPA has failed to account for potential process safety considerations associated with the combustion of ethylene oxide (EO). The safety issues of incineration of epoxides were adequately addressed at

the best-controlled facility and the other facility in the database that has incineration. Therefore, the EPA did not find these reasons to be sufficient to justify eliminating the data from the best-controlled facility when determining the MACT floor for new sources.

VII. Administrative Requirements

A. Docket

The docket is an organized and complete file of all the information submitted to or otherwise considered by the EPA in the development of the final standards. The principal purposes of the docket are:

(1) To allow interested parties to readily identify and locate documents so that they can intelligently and effectively participate in the rulemaking process; and

(2) To serve as the record in case of judicial review (except for interagency review materials (section 307(d)(7)(A))).

B. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in standards that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The EPA has determined that this rule does not meet any of the criteria enumerated above and therefore, does not constitute a "significant regulatory action" under the terms of Executive Order 12866.

C. Executive Order 13045

Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), applies to any rule that:

(1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that the EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Order has the potential to influence the regulation. This final rule falls into that category only in part: The minimum rule stringency is set according to a congressionally-mandated, technology-based lower limit called the "floor," while a decision to increase the stringency beyond this floor can be based on risk considerations. Only to the extent that the Agency may consider the inherent toxicity of a regulated pollutant, and any differential impact such a pollutant may have on children's health, in deciding whether to adopt control requirements more stringent than the floor level.

This final rule is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866. No children's risk analysis was performed for this rulemaking because no alternative technologies exist that would provide greater stringency at a reasonable cost, and therefore the results of any such analysis would have no impact on the stringency decision.

D. Paperwork Reduction Act

The information collection requirements in this rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 1811.02) and a copy may be obtained from Sandy Farmer by mail at OP Regulatory Information Division: U.S. Environmental Protection Agency (2137); 401 M St., SW.; Washington, DC 20460, by email at farmer.sandy@epa.gov, or by calling (202) 260-2740. A copy may also be downloaded off the internet at <http://www.epa.gov/icr>. The information requirements are not effective until OMB approves them.

The public recordkeeping and reporting burden for this collection of information is estimated to average 1,046 hours per respondent for the first year and 162 hours for each of the second and third years (following promulgation of the rule). Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

E. Regulatory Flexibility Act

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. The EPA has also determined that this rule will not have a significant adverse economic impact on a substantial number of small businesses. Consistent with Small Business Administrative (SBA) size standards, a polyether polyols producing firm is classified as a small entity if it has less than 750 employees and is unaffiliated with a larger domestic entity. Based upon this standard, 7 of the 36 polyether polyol producing firms are classified as small entities (i.e., having fewer than 750 employees). The EPA determined that none of these seven small entities will experience an increase in costs as a result of the promulgation of today's rule that is greater than one percent of revenues. This does not qualify as a significant economic impact on a substantial number of small businesses.

F. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides

that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. § 804(2).

G. Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires the EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows the EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before the EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and

tribal governments, in aggregate, or the private sector in any 1 year, nor does the rule significantly or uniquely impact small governments, because it contains no requirements that apply to such governments or impose obligations upon them. Thus, the requirements of the UMRA do not apply to this rule.

H. Executive Order 12875

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule implements requirements specifically set forth by the Congress in section 112 of the CAA without the exercise of any discretion by the EPA. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

I. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to

issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. The rule does not affect these entities because they do not own or operate sources subject to this rule and therefore are not required to purchase control systems to meet the requirements of this rule. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

J. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA), Pub. L. 104-113 (March 7, 1996), directs all Federal agencies to use voluntary consensus standards in regulatory and procurement activities unless to do so would be inconsistent with applicable law or otherwise impracticable. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA requires Federal agencies to provide Congress, through annual reports to OMB, with explanations when an agency does not use available and applicable voluntary consensus standards. This section summarizes the EPA's response to the requirements of the NTTAA for the analytical and test methods to be required by this final rule.

Consistent with the NTTAA, the EPA conducted a search to identify voluntary consensus standards. The search identified 15 voluntary consensus standards that appeared to have possible use in lieu of EPA standard reference methods in this rule. However, after reviewing available standards, EPA determined that eight of the candidate consensus standards identified for measuring emissions of the HAP or surrogates subject to emission standards in the rule would not be practical due to lack of equivalency, documentation, validation data or other important technical and policy considerations. Seven of the remaining candidate consensus standards are new standards under development that EPA plans to follow, review and consider adopting at a later date.

One consensus standard, ASTM Z7420Z, is potentially practical for EPA use in lieu of EPA Method 18 (See 40 CFR part 60, appendix A). At the time of EPA's search, the ASTM standard was still under development and EPA had provided comments on the method. The EPA also compared a draft of this ASTM standard to methods previously approved as alternatives to EPA Method 18 with specific applicability limitations. These methods, designated as ALT-017 and CTM-028, are available through EPA's Emission Measurement Center Internet site at www.epa.gov/ttn/emc/tmethods.html. The proposed ASTM Z7420Z standard is very similar to these approved alternative methods. When finalized and adopted by ASTM, the standard may be equally suitable for specific applications. However, today's rule does not adopt the ASTM standard at this time as it is not practical to do so until the potential candidate is final and EPA has reviewed the final standard. The EPA plans to continue to follow the progress of the standard and will consider adopting the ASTM standard at a later date.

This rule requires standard EPA methods known to the industry and States. Approved alternative methods also may be used with prior EPA approval.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: May 12, 1999.

Carol M. Browner,
Administrator.

For the reasons set out in the preamble, part 63 of title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR AFFECTED SOURCE CATEGORIES

1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401, et. seq.

2. Part 63 is amended by adding subpart PPP to read as follows:

Subpart PPP—National Emission Standards for Hazardous Air Pollutant Emissions for Polyether Polyols Production

Sec.

- 63.1420 Applicability and designation of affected sources.
- 63.1421 Delegation of authority.
- 63.1422 Compliance dates and relationship of this rule to existing applicable rules.
- 63.1423 Definitions.

- 63.1424 Emission standards.
- 63.1425 Process vent control requirements.
- 63.1426 Process vent requirements for determining organic HAP concentration, control efficiency, and aggregated organic HAP emission reduction for a PMPU.

- 63.1427 Process vent requirements for processes using extended cookout as an epoxide emission reduction technique.

- 63.1428 Process vent requirements for group determination of PMPUs using a nonepoxide organic HAP to make or modify the product.

- 63.1429 Process vent monitoring requirements.

- 63.1430 Process vent reporting and recordkeeping requirements.

- 63.1431 Process vent annual epoxides emission factor plan requirements.

- 63.1432 Storage vessel provisions.

- 63.1433 Wastewater provisions.

- 63.1434 Equipment leak provisions.

- 63.1435 Heat exchanger provisions.

- 63.1436 [Reserved]

- 63.1437 Additional requirements for performance testing.

- 63.1438 Parameter monitoring levels and excursions.

- 63.1439 General recordkeeping and reporting provisions.

Table 1 to Subpart PPP of Part 63—
APPLICABILITY OF GENERAL
PROVISIONS TO SUBPART PPP
AFFECTED SOURCES

Table 2 to Subpart PPP of Part 63—
APPLICABILITY OF SUBPARTS F, G, H,
AND U TO SUBPART PPP AFFECTED
SOURCES

Table 3 to Subpart PPP of Part 63—GROUP
1 STORAGE VESSELS AT EXISTING
AND NEW AFFECTED SOURCES

Table 4 to Subpart PPP of Part 63—KNOWN
ORGANIC HAP FROM POLYETHER
POLYOL PRODUCTS

Table 5 to Subpart PPP of Part 63—PROCESS
VENTS FROM BATCH UNIT
OPERATIONS—MONITORING,
RECORDKEEPING, AND REPORTING
REQUIREMENTS

Table 6 to Subpart PPP of Part 63—PROCESS
VENTS FROM CONTINUOUS UNIT
OPERATIONS—MONITORING,
RECORDKEEPING, AND REPORTING
REQUIREMENTS

Table 7 to Subpart PPP of Part 63—
OPERATING PARAMETERS FOR
WHICH MONITORING LEVELS ARE
REQUIRED TO BE ESTABLISHED FOR
PROCESS VENTS STREAMS

Table 8 to Subpart PPP of Part 63—ROUTINE
REPORTS REQUIRED BY THIS
SUBPART

Subpart PPP—National Emission Standards for Hazardous Air Pollutant Emissions for Polyether Polyols Production

§ 63.1420 Applicability and designation of affected sources.

(a) *Definition of affected source.* The provisions of this subpart apply to each affected source. Affected sources are

described in paragraphs (a)(1) through (4) of this section.

(1) An affected source is either an existing affected source or a new affected source. Existing affected source is defined in paragraph (a)(2) of this section, and new affected source is defined in paragraph (a)(3) of this section.

(2) An existing affected source is defined as the group of one or more polyether polyol manufacturing process units (PMPUs) and associated equipment, as listed in paragraph (a)(4) of this section, that is not part of a new affected source, as defined in paragraph (a)(3) of this section, and that is located at a plant site that is a major source.

(3) A new affected source is defined as a source that meets the criteria of paragraph (a)(3)(i), (ii), or (iii) of this section. The situation described in paragraph (a)(3)(i) of this section is distinct from those situations described in paragraphs (a)(3)(ii) and (iii) of this section.

(i) At a site without organic HAP emission points before September 4, 1997 (i.e., a "greenfield" site), the group of one or more PMPUs and associated equipment, as listed in paragraph (a)(4) of this section, that is part of a major source, and on which construction for the PMPU(s) commenced after September 4, 1997:

(ii) The group of one or more PMPUs meeting the criteria in paragraph (g)(1)(i) of this section; or

(iii) A reconstructed affected source meeting the criteria in paragraph (g)(2)(i) of this section.

(4) The affected source also includes the emission points and equipment specified in paragraphs (a)(4)(i) through (vi) of this section that are associated with a PMPU (or a group of PMPUs) making up an affected source, as defined in § 63.1423.

(i) Each waste management unit.

(ii) Maintenance wastewater.

(iii) Each heat exchange system.

(iv) Equipment required by or utilized as a method of compliance with this subpart which may include control techniques and recovery devices.

(v) Product finishing operation.

(vi) Each feed or catalyst operation.

(b) *PMPUs without organic HAP.* The owner or operator of a PMPU that is part of an affected source, as defined in paragraph (a) of this section, but that does not use or manufacture any organic HAP during the production of one or more products is only subject to the provisions of this subpart as specified in paragraph (b)(1) or (2) of this section, as applicable. Products or raw material(s) containing organic HAP as impurities

only are not considered organic HAP for the purposes of this paragraph.

(1) If an organic HAP is not used or manufactured in the production of polyether polyols, the PMPU is not subject to any provisions of this subpart, except that the owner or operator shall comply with either paragraph (b)(1)(i) or (ii) of this section. The owner or operator is not required to comply with the provisions of 40 CFR part 63, subpart A (the General Provisions) for that PMPU.

(i) Retain information, data, and analyses used to document the basis for the determination that the PMPU does not use or manufacture any organic HAP. Types of information that could document this determination include, but are not limited to, records of chemicals purchased for the process, analyses of process stream composition, engineering calculations, or process knowledge.

(ii) When requested by the Administrator, demonstrate that the PMPU does not use or manufacture any organic HAP.

(2) If an organic HAP is used or manufactured in the production of polyether polyols, but an organic HAP is not used in the production of one or more products that are not polyether polyols, the PMPU is not subject to any provision of this subpart other than paragraph (b)(1)(i) or (ii) of this section during the production of the non-polyether polyol products that do not use or manufacture any organic HAP.

(c) *Emission points included in the affected source but not subject to the provisions of this subpart.* The affected source includes the emission points listed in paragraphs (c)(1) through (12) of this section, but these emission points are not subject to the requirements of this subpart or the provisions of 40 CFR part 63, subpart A.

(1) Equipment that does not contain organic HAP or that contains organic HAP as impurities only and is located at a PMPU that is part of an affected source.

(2) Stormwater managed in segregated sewers.

(3) Water from fire-fighting and deluge systems in segregated sewers.

(4) Spills.

(5) Water from safety showers.

(6) Water from testing of deluge systems.

(7) Water from testing of firefighting systems.

(8) Vessels that store and/or handle material that contains no organic HAP or organic HAP as impurities only.

(9) Equipment that operates in organic HAP service for less than 300 hours during the calendar year.

(10) Loading racks, loading arms, or loading hoses that only transfer liquids containing HAP as impurities.

(11) Loading racks, loading arms, or loading hoses that vapor balance during all loading operations.

(12) Utility fluids, such as heat transfer fluids.

(d) *Processes exempted from the affected source.* The processes specified in paragraphs (d)(1) through (3) of this section are not part of the affected source and are exempted from the requirements of both this subpart and subpart A of this part.

(1) Research and development facilities.

(2) Solvent reclamation, recovery, or recycling operations at hazardous waste treatment, storage, and disposal facilities (TSDF) requiring a permit under 40 CFR part 270 that are not part of a PMPU to which this subpart applies.

(3) Reactions or processing that occur after the epoxide polymerization is complete and after all catalyst removal steps, if any, are complete.

(e) *Primary product determination and applicability.* An owner or operator of a process unit that produces or plans to produce a polyether polyol shall determine if the process unit is subject to this subpart in accordance with this paragraph.

(1) *Initial primary product determination.* The owner or operator shall initially determine the primary product of each process unit in accordance with paragraphs (e)(1)(i) through (iii) of this section.

(i) If a process unit manufactures only one product, then that product shall represent the primary product of the process unit.

(ii) If a process unit produces more than one intended product at the same time, the primary product shall be determined in accordance with paragraph (e)(1)(ii)(A) or (B) of this section.

(A) The product for which the process unit has the greatest annual design capacity on a mass basis shall represent the primary product of the process unit, or

(B) If a process unit has the same maximum annual design capacity on a mass basis for two or more products and if one of those products is a polyether polyol, then the polyether polyol shall represent the primary product of the process unit.

(iii) If a process unit is designed and operated as a flexible operation unit, the primary product shall be determined as specified in paragraph (e)(1)(iii)(A) or (B) of this section based on the anticipated operations for the 5 years

following September 4, 1997 for existing process units, or for the first year after the process unit begins production of any product for the new process units. If operations cannot be anticipated sufficiently to allow the determination of the primary product for the specified period, applicability shall be determined in accordance with paragraph (e)(2) of this section.

(A) If the flexible operation unit will manufacture one product for the greatest operating time over the specified 5-year period for existing process units, or the specified 1-year period for new process units, then that product shall represent the primary product of the flexible operation unit.

(B) If the flexible operation unit will manufacture multiple products equally based on operating time, then the product with the greatest expected production on a mass basis over the specified 5-year period for existing process units, or the specified 1-year period for new process units shall represent the primary product of the flexible operation unit.

(iv) If, according to paragraph (e)(1)(i), (ii), or (iii) of this section, the primary product of a process unit is a polyether polyol, then that process unit shall be designated as a PMPU. If the plant site is a major source, that PMPU and associated equipment, as listed in paragraph (a)(4) of this section, is either an affected source or part of an affected source comprised of one or more other PMPUs and associated equipment, as listed in paragraph (a)(4) of this section, and subject to this subpart. If the primary product of a process unit is not a polyether polyol, then that process unit is not a PMPU.

(2) *Provisions if primary product cannot be determined.* If the primary product cannot be determined for a flexible operation unit in accordance with paragraph (e)(1)(iii) of this section, applicability shall be determined in accordance with this paragraph.

(i) If the owner or operator can determine that a polyether polyol is not the primary product, then that flexible operation unit is not a PMPU.

(ii) If the owner or operator cannot determine that a polyether polyol is not the primary product as specified in paragraph (e)(2)(i) of this section, applicability shall be determined in accordance with paragraph (e)(2)(ii)(A) or (B) of this section.

(A) If the flexible operation unit is an existing process unit, the flexible operation unit shall be designated as a PMPU if a polyether polyol was produced for 5 percent or greater of the total operating time of the flexible operation unit since September 4, 1997.

(B) If the flexible operation unit is a new process unit, the flexible operation unit shall be designated as a PMPU if the owner or operator anticipates that a polyether polyol will be manufactured in the flexible operation unit at any time in the first year after the date the unit begins production of any product.

(3) *Annual applicability determination for non-PMPUs that have produced a polyether polyol.* Once per year beginning June 1, 2004 the owner or operator of each flexible operation unit that is not designated as a PMPU, but that has produced a polyether polyol at any time in the preceding 5-year period or since the date that the unit began production of any product, whichever is shorter, shall perform the evaluation described in paragraphs (e)(3)(i) through (iii) of this section.

(i) For each product produced in the flexible operation unit, the owner or operator shall calculate the percentage of total operating time over which the product was produced during the preceding 5-year period.

(ii) The owner or operator shall identify the primary product as the product with the highest percentage of total operating time for the preceding 5-year period.

(iii) If the primary product identified in paragraph (e)(3)(ii) is a polyether polyol, the flexible operation unit shall be designated as a PMPU. The owner or operator shall notify the Administrator no later than 45 days after determining that the flexible operation unit is a PMPU, and shall comply with the requirements of this subpart in accordance with paragraph (g)(1) of this section for the flexible operation unit.

(4) *Applicability determination for non-PMPUs that have not produced a polyether polyol.* The owner or operator that anticipates the production of a polyether polyol in a process unit that is not designated as a PMPU, and in which no polyether polyol products have been produced in the previous 5-year period or since the date that the process unit began production of any product, whichever is shorter, shall use the procedures in paragraph (e)(1) or (2) of this section to determine if the process unit is designated as a PMPU, with the exception that for existing process units, owners or operators shall project production for the 5 years following the date that the owner or operator anticipates initiating the production of a polyether polyol, instead of the 5 years following September 4, 1997. If the unit is designated as a PMPU, the owner or operator shall comply in accordance with paragraph (g)(1) of this section.

(5) *Applicability of requirements for PMPUs that are flexible operation units.* The owner or operator of PMPUs that are flexible operation units shall comply with the provisions of this subpart in accordance with paragraphs (e)(5)(i) through (iii) of this section.

(i) *Control requirements.* The owner or operator shall comply with the control requirements of this subpart in accordance with paragraphs (e)(5)(i)(A) and (B) of this section.

(A) During periods when the PMPU produces polyether polyols, the owner or operator shall comply with the provisions of this subpart.

(B) During periods when the PMPU produces products other than polyether polyols, the owner or operator is not required to install additional combustion, recovery, or recapture devices (to otherwise demonstrate compliance). However, the owner or operator shall continue to operate any existing combustion, recovery, or recapture devices that are required for compliance during the production of polyether polyols, with the exceptions provided in paragraph (e)(5)(iv) of this section. If extended cookout (ECO) is the control technique chosen for epoxide emission reduction, then ECO or a control technique providing an equivalent reduction in epoxide emissions should continue to be used for epoxide emission reduction, if the non-polyether polyol being produced uses epoxide monomers.

(ii) *Monitoring requirements.* The owner or operator shall comply with the monitoring requirements of this subpart in accordance with paragraphs (e)(5)(ii)(A) and (B) of this section, and paragraph (e)(5)(ii)(C) of this section if applicable.

(A) The owner or operator shall establish a single parameter monitoring level (for each parameter required to be monitored at each device subject to monitoring requirements) in accordance with § 63.1438(a) based on emission point and control technique characteristics when polyether polyol is being produced.

(B) The owner or operator shall monitor each parameter at each device subject to monitoring requirements at all times (during periods when the PMPU produces polyether polyols, and during periods when the PMPU produces products other than polyether polyols), with the exceptions provided in paragraph (e)(5)(iv) of this section.

(C) If ECO is used to reduce epoxide emissions, a parameter monitoring level shall be established for the production of non-polyether polyol products as the average of the established parameter levels for all product classes produced.

During periods when products other than polyether polyols are produced, the ECO shall be performed so that the parameter monitoring level established for the production of non-polyether polyol products is maintained when the ECO is used as a control technique.

(iii) *Group determinations.* For emission points where the owner or operator is required to determine if the emission point is Group 1 according to the definitions in § 63.1423 (storage vessels, process vents for nonepoxy organic HAP emissions used to make or modify the product, and wastewater), the owner or operator shall determine the group status based on emission point characteristics when polyether polyol is being manufactured. Group 1 emission points shall be controlled in accordance with paragraph (e)(5)(i) of this section.

(iv) *Exceptions.* During periods when products described in paragraphs (e)(5)(iv)(A) and (B) of this section are produced, the owner or operator is not required to comply with the provisions of this subpart.

(A) Products in which no organic HAP is used or manufactured, provided that the owner or operator comply with paragraph (b)(2) of this section.

(B) Products that make the PMPU subject to 40 CFR part 63, subpart GGG (Pharmaceuticals Production NESHA).

(6) [Reserved]

(7) [Reserved]

(8) *Requirements for process units that are not PMPUs.* If it is determined that a process unit is not subject to this subpart, the owner or operator shall either retain all information, data, and analysis used to document the basis for the determination that the process unit is not a PMPU, or, when requested by the Administrator, demonstrate that the process unit is not a PMPU.

(9) *PMPUs terminating production of polyether polyols products.* If a PMPU terminates the production of polyether polyol and does not anticipate the production of a polyether polyol in the future, the process unit is no longer a PMPU and is not subject to this subpart after notification is made to the Administrator. This notification shall be accompanied by a rationale for why it is anticipated that no polyether polyol will be produced in the process unit in the future.

(10) *Redetermination of applicability to PMPUs that are flexible operation units.* Whenever changes in production occur that could reasonably be expected to change the primary product of a PMPU that is operating as a flexible operation unit from a polyether polyol to a product that would make the process unit subject to another subpart of this part, the owner or operator shall

reevaluate the primary product, in accordance with paragraphs (e)(3)(i) and (ii) of this section. If the conditions in paragraphs (e)(10)(i) through (iii) of this section are met, the flexible operation unit shall no longer be designated as a PMPU after the compliance date of the other subpart, and shall no longer be subject to the provisions of this subpart after the date that the process unit is required to be in compliance with the provisions of the other subpart. If the conditions in paragraphs (e)(10)(i) through (iii) of this section are not met, the flexible operation unit shall continue to be considered a PMPU and subject to the requirements of this subpart.

(i) The product identified as the primary product is not polyether polyol;

(ii) The production of the product identified as the primary product is subject to another subpart of this part; and

(iii) The owner or operator submits a notification to the Administrator of the pending change in applicability.

(f) *Storage vessel ownership determination.* The owner or operator shall follow the procedures specified in paragraphs (f)(1) through (7) of this section to determine to which process unit a storage vessel shall be assigned.

(1) If a storage vessel is already subject to another subpart of 40 CFR part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) on June 1, 1999, that storage vessel shall be assigned to the process unit subject to the other subpart, and none of the other provisions in this subpart shall apply to that storage vessel.

(2) If a storage vessel is dedicated to a single process unit, the storage vessel shall be assigned to that process unit.

(3) If a storage vessel is shared among process units, then the storage vessel shall be assigned to that process unit located on the same plant site as the storage vessel that has the greatest input into or output from the storage vessel (i.e., the process unit that has the predominant use of the storage vessel.)

(4) If predominant use cannot be determined for a storage vessel that is shared among process units and if only one of those process units is a PMPU subject to this subpart, the storage vessel shall be assigned to that PMPU.

(5) If predominant use cannot be determined for a storage vessel that is shared among process units and if more than one of the process units are PMPUs that have different primary products and that are subject to this subpart, then the owner or operator shall assign the storage vessel to any one of the PMPUs sharing the storage vessel.

(6) If the predominant use of a storage vessel varies from year to year, then predominant use shall be determined based on the utilization that occurred during the year preceding June 1, 1999 or based on the expected utilization for the 5 years following June 1, 1999 for existing affected sources, whichever is more representative of the expected operations for that storage vessel, and based on the expected utilization for the 5 years after initial start-up for new affected sources. The determination of predominant use shall be reported in the Notification of Compliance Status, as required by § 63.1439(e)(5)(v).

(7) Where a storage vessel is located at a major source that includes one or more process units which place material into or receive material from the storage vessel, but the storage vessel is located in a tank farm (including a marine tank farm), the applicability of this subpart shall be determined according to the provisions in paragraphs (f)(7)(i) through (iv) of this section.

(i) The storage vessel may only be assigned to a process unit that utilizes the storage vessel and does not have an intervening storage vessel for that product (or raw materials, as appropriate). With respect to any process unit, an intervening storage vessel means a storage vessel connected by hard-piping to both the process unit and the storage vessel in the tank farm so that product or raw material entering or leaving the process unit flows into (or from) the intervening storage vessel and does not flow directly into (or from) the storage vessel in the tank farm.

(ii) If there is no process unit at the major source that meets the criteria of paragraph (f)(7)(i) of this section with respect to a storage vessel, this subpart does not apply to the storage vessel.

(iii) If there is only one process unit at the major source that meets the criteria of paragraph (f)(7)(i) of this section with respect to a storage vessel, the storage vessel shall be assigned to that process unit.

(iv) If there are two or more process units at the major source that meet the criteria of paragraph (f)(7)(i) of this section with respect to a storage vessel, the storage vessel shall be assigned to one of those process units according to the provisions of paragraphs (f)(3) through (6) of this section. The predominant use shall be determined among only those process units that meet the criteria of paragraph (f)(7)(i) of this section.

(8) If the storage vessel begins receiving material from (or sending material to) a process unit that was not included in the initial determination, or ceases to receive material from (or send

material to) a process unit that was included in the initial determination, the owner or operator shall reevaluate the applicability of this subpart to that storage vessel.

(g) *Changes or additions to plant sites.* The provisions of this paragraph apply to the owner or operator that changes or adds to their plant site or affected source.

(1) *Adding a PMPU to a plant site.* The provisions of paragraphs (g)(1)(i) and (ii) of this section apply to the owner or operator that adds one or more PMPUs to a plant site. A PMPU may be added to a plant site by constructing or reconstructing a process unit to produce polyether polyols. A PMPU may also be added to a plant site due to changes in production (anticipated production or actual past production) such that a polyether polyol becomes the primary product of a process unit that was not previously a PMPU.

(i) If a group of one or more PMPUs is added to a plant site, the added group of one or more PMPUs and their associated equipment, as listed in paragraph (a)(4) of this section, shall be a new affected source and shall comply with the requirements for a new affected source in this subpart upon initial start-up or by June 1, 1999, whichever is later, if the criteria specified in paragraph (g)(1)(i)(A) is met and either the criteria in paragraph (g)(1)(i)(B) or (C) of this section are met.

(A) The process units are new process units, as defined in § 63.1423.

(B) The added group of one or more PMPUs and associated equipment, as listed in paragraph (a)(4) of this section, has the potential to emit 10 tons per year (9.1 megagrams per year) or more of any organic HAP or 25 tons per year (22.7 megagrams per year) or more of any combination of organic HAP, and polyether polyols are currently produced at the plant site as the primary product of an affected source.

(C) A polyether polyol is not currently produced at the plant site as the primary product of an affected source, and the plant site meets, or after the addition is constructed will meet, the General Provisions' definition of a major source in § 63.2.

(ii) If a group of one or more PMPUs is added to a plant site, and the added group of one or more PMPUs does not meet the criteria specified in paragraph (g)(1)(i)(A) of this section and one of the criteria specified in either paragraph (g)(1)(i)(B) or (C) of this section, and the plant site meets, or after the addition will meet, the definition of a major source, the owner or operator of the added group of one or more PMPUs and associated equipment, as listed in

paragraph (a)(4) of this section, shall comply with the requirements for an existing affected source in this subpart upon initial start-up; by June 1, 2002; or by 6 months after notifying the Administrator that a process unit has been designated as a PMPU (in accordance with paragraph (g)(3) of this section), whichever is later.

(2) *Adding emission points or making process changes to existing affected sources.* The provisions of paragraphs (g)(2)(i) and (ii) of this section apply to the owner or operator that adds emission points or makes process changes to an existing affected source.

(i) If any process change or addition is made to an existing affected source that meets the criteria specified in paragraphs (g)(2)(i)(A) and (B) of this section, the entire affected source shall be a new affected source and shall comply with the requirements for a new affected source in this subpart upon initial start-up or by June 1, 1999.

(A) It is a process change or addition that meets the definition of reconstruction in § 63.1423(b). For purposes of determining whether the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct an entire affected source, the equivalent capital cost shall be the entire potentially affected source; and

(B) Such reconstruction commenced after September 4, 1997.

(ii) If any process change is made or emission point is added to an existing affected source, and the process change or addition does not meet the criteria specified in paragraph (g)(2)(i)(A) of this section, the resulting emission point(s) shall be subject to the requirements for an existing affected source in this subpart. The resulting emission point(s) shall be in compliance upon initial start-up or by the appropriate compliance date specified in § 63.1422 (i.e., December 1, 1999 for most equipment leak components, and June 1, 2002 for emission points other than equipment leaks).

(3) *Determining what are and are not process changes.* For purposes of paragraph (g) of this section, examples of process changes include, but are not limited to, additions in process equipment resulting in changes in production capacity; production of a product outside the scope of the compliance demonstration; or whenever there is a replacement, removal, or addition of recovery equipment. For purposes of paragraph (g) of this section, process changes do not include: Process upsets, unintentional temporary process changes, and changes that are within the equipment configuration and operating

conditions documented in the Notification of Compliance Status report required by § 63.1439(e)(5).

(4) *Reporting requirements for owners or operators that change or add to their plant site or affected source.* An owner or operator that changes or adds to their plant site or affected source, as discussed in paragraphs (g)(1) and (2) of this section, shall submit a report as specified in § 63.1439(e)(7)(ii).

(h) *Applicability of this subpart during periods of start-up, shutdown, malfunction, or non-operation.* Paragraphs (h)(1) through (4) of this section shall be followed during periods of start-up, shutdown, malfunction, and non-operation of the affected source or any part thereof.

(1) The emission limitations set forth in this subpart and the emission limitations referred to in this subpart shall apply at all times except during periods of non-operation of the affected source (or specific portion thereof) resulting in cessation of the emissions to which this subpart applies. These emission limitations shall not apply during periods of start-up, shutdown, or malfunction, during which the owner or operator shall follow the applicable provisions of the start-up, shutdown, and malfunction plan required by § 63.6(e)(3). However, if a start-up, shutdown, malfunction, or period of non-operation of one portion of an affected source does not affect the ability of a particular emission point to comply with the emission limitations to which it is subject, then that emission point shall still be required to comply with the applicable emission limitations of this subpart during the start-up, shutdown, malfunction, or period of non-operation. For example, if there is an overpressure in the reactor area, a storage vessel that is part of the affected source would still be required to be controlled in accordance with the storage tank provisions in § 63.1432. Similarly, the degassing of a storage vessel would not affect the ability of a process vent to meet the emission limitations for process vents in §§ 63.1425 through 63.1430.

(2) The emission limitations set forth in 40 CFR part 63, subpart H, as referred to in the equipment leak provisions in § 63.1434, shall apply at all times except during periods of non-operation of the affected source (or specific portion thereof) in which the lines are drained and depressurized resulting in cessation of the emissions to which § 63.1434 applies, or during periods of start-up, shutdown, malfunction, or process unit shutdown (as defined in § 63.161).

(3) The owner or operator shall not shut down items of equipment that are

required or utilized for compliance with this subpart during periods of start-up, shutdown, or malfunction during times when emissions (or, where applicable, wastewater streams or residuals) are being routed to such items of equipment if the shutdown would contravene requirements applicable to such items of equipment. This paragraph does not apply if the item of equipment is malfunctioning. This paragraph also does not apply if the owner or operator shuts down the compliance equipment (other than monitoring systems) to avoid damage due to a contemporaneous start-up, shutdown, or malfunction of the affected source or portion thereof. If the owner or operator has reason to believe that monitoring equipment would be damaged due to a contemporaneous start-up, shutdown, or malfunction of the affected source or portion thereof, the owner or operator shall provide documentation supporting such a claim in the Precompliance Report or in a supplement to the Precompliance Report, as provided for in § 63.1439(e)(4). Once approved by the Administrator in accordance with § 63.1439(e)(4)(vii), the provision for ceasing to collect, during a start-up, shutdown, or malfunction, monitoring data that would otherwise be required by the provisions of this subpart shall be incorporated into the start-up, shutdown, malfunction plan for that affected source, as stated in § 63.1439(b)(1).

(4) During start-ups, shutdowns, and malfunctions when the emission limitations of this subpart do not apply pursuant to paragraphs (h)(1) through (3) of this section, the owner or operator shall implement, to the extent reasonably available, measures to prevent or minimize excess emissions to the extent practical. For purposes of this paragraph, the term "excess emissions" means emissions in excess of those that would have occurred if there were no start-up, shutdown, or malfunction and the owner or operator complied with the relevant provisions of this subpart. The measures to be taken shall be identified in the applicable start-up, shutdown, and malfunction plan, and may include, but are not limited to, air pollution control technologies, recovery technologies, work practices, pollution prevention, monitoring, and/or changes in the manner of operation of the affected source. Use of back-up control techniques is not required, but is allowed, if available.

§ 63.1421 Delegation of authority.

(a) In delegating implementation and enforcement authority to a State under section 112(l) of the Act, the authorities

contained in paragraph (b) of this section shall be retained by the Administrator and not transferred to a State.

(b) Authorities which will not be delegated to the States: the permission to use an alternative means of emission limitation, from § 63.6(g), and the authority of § 63.177.

§ 63.1422 Compliance dates and relationship of this rule to existing applicable rules.

(a) [Reserved]

(b) New affected sources that commence construction or reconstruction after September 4, 1997 shall be in compliance with this subpart upon initial start-up or by June 1, 1999, whichever is later, as provided in § 63.6(b).

(c) Existing affected sources shall be in compliance with this subpart (except for § 63.1434 for which compliance is covered by paragraph (d) of this section) no later than June 1, 2002, as provided in § 63.6(c), unless an extension has been granted as specified in paragraph (e) of this section.

(d) Except as provided for in paragraphs (d)(1) through (5) of this section, existing affected sources shall be in compliance with § 63.1434 no later than December 1, 1999 unless an extension has been granted as specified in paragraph (e) of this section.

(1) Compliance with the compressor provisions of § 63.164 shall occur no later than June 1, 2000 for any compressor meeting one or more of the criteria in paragraphs (d)(1)(i) through (iv) of this section, if the work can be accomplished without a process unit shutdown, as defined in § 63.161.

(i) The seal system will be replaced.

(ii) A barrier fluid system will be installed.

(iii) A new barrier fluid will be utilized which requires changes to the existing barrier fluid system.

(iv) The compressor shall be modified to permit connecting the compressor to a closed vent system.

(2) Compliance with the compressor provisions of § 63.164 shall occur no later than December 1, 2000, for any compressor meeting all the criteria in paragraphs (d)(2)(i) through (iv) of this section.

(i) The compressor meets one or more of the criteria specified in paragraphs (d)(1)(i) through (iv) of this section.

(ii) The work can be accomplished without a process unit shutdown as defined in § 63.161.

(iii) The additional time is necessary, due to the unavailability of parts beyond the control of the owner or operator.

(iv) The owner or operator submits the request for a compliance extension

to the appropriate U.S. Environmental Protection Agency Regional Office at the addresses listed in § 63.13 no later than 45 days before December 1, 1999. The request for a compliance extension shall contain the information specified in § 63.6(i)(6)(i)(A), (B), and (D). Unless the EPA Regional Office objects to the request for a compliance extension within 30 days after receipt of the request, the request shall be deemed approved.

(3) If compliance with the compressor provisions of § 63.164 cannot reasonably be achieved without a process unit shutdown, as defined in § 63.161, the owner or operator shall achieve compliance no later than June 1, 2001. The owner or operator who elects to use this provision shall submit a request for an extension of compliance in accordance with the requirements of paragraph (d)(2)(iv) of this section.

(4) Compliance with the compressor provisions of § 63.164 shall occur no later than June 1, 2002 for any compressor meeting one or more of the criteria in paragraphs (d)(4)(i) through (iii) of this section. The owner or operator who elects to use these provisions shall submit a request for an extension of compliance in accordance with the requirements of paragraph (d)(2)(iv) of this section.

(i) Compliance cannot be achieved without replacing the compressor.

(ii) Compliance cannot be achieved without recasting the distance piece.

(iii) Design modifications are required to connect to a closed-vent system.

(5) Compliance with the surge control vessel and bottoms receiver provisions of § 63.170 shall occur no later than June 1, 2002.

(e) Pursuant to section 112(i)(3)(B) of the Act, an owner or operator may request an extension allowing the existing affected source up to 1 additional year to comply with section 112(d) standards. For purposes of this subpart, a request for an extension shall be submitted to the permitting authority as part of the operating permit application or to the Administrator as a separate submittal or as part of the Precompliance Report. Requests for extensions shall be submitted no later than 120 days prior to the compliance dates specified in paragraphs (b) through (d) of this section, except as discussed in paragraph (e)(3) of this section. The dates specified in § 63.6(i) for submittal of requests for extensions shall not apply to this subpart.

(1) A request for an extension of compliance shall include the data described in § 63.6(i)(6)(i)(A), (B), and (D).

(2) The requirements in § 63.6(i)(8) through (14) shall govern the review and approval of requests for extensions of compliance with this subpart.

(3) An owner or operator may submit a compliance extension request after the date specified in paragraph (e) of this section, provided that the need for the compliance extension arose after that date, and the need arose due to circumstances beyond reasonable control of the owner or operator. This request shall include, in addition to the information specified in paragraph (e)(1) of this section, a statement of the reasons additional time is needed and the date when the owner or operator first learned of the problem.

(f) Table 1 of this subpart specifies the requirements in 40 CFR part 63, subpart A (the General Provisions) that apply and those that do not apply to owners and operators of affected sources subject to this subpart. For the purposes of this subpart, Table 3 of 40 CFR part 63, subpart F is not applicable.

(g) Table 2 of this subpart summarizes the provisions of 40 CFR part 63, subparts F, G, and H (collectively known as the "HON") that apply and those that do not apply to owners and operators of affected sources subject to this subpart.

(h)(1) After the compliance dates specified in this section, an affected source subject to this subpart that is also subject to the provisions of 40 CFR part 63, subpart I, is required to comply only with the provisions of this subpart.

(2) Sources subject to the provisions in 40 CFR part 63, subpart I, that have elected to comply through a quality improvement program, as specified in § 63.175 or § 63.176 or both, may elect to continue these programs without interruption as a means of complying with this subpart. In other words, becoming subject to this subpart does not restart or reset the "compliance clock" as it relates to reduced burden earned through a quality improvement program.

(i) After the compliance dates specified in this section, a storage vessel that is assigned to an affected source subject to this subpart that is also subject to the 40 CFR part 60, subpart Kb (Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced after July 23, 1984) is required to comply only with the provisions of this subpart. After the compliance dates specified in this section, that storage vessel shall no longer be subject to 40 CFR part 60, subpart Kb.

(j) After the compliance dates specified in this subpart, if any combustion device, recovery device or recapture device subject to this subpart is also subject to monitoring, recordkeeping, and reporting requirements for hazardous waste, disposal, and treatment facilities in 40 CFR part 264, subpart AA (Air Emission Standards for Process Vents) or subpart CC (Air Emission Standards for Tanks, Surface Impoundment, and Containers), the owner or operator may comply with either paragraph (j)(1) or (2) of this section. If, after the compliance dates specified in this subpart, any combustion device, recovery device, or recapture device subject to this subpart is subject to monitoring and recordkeeping requirements hazardous waste treatment, storage, and disposal facilities in 40 CFR part 265, subpart AA (Air Emission Standards for Process Vents) or subpart CC (Air Emission Standards for Tanks, Surface Impoundments, and Containers), the owner or operator may comply with either paragraph (j)(1) or (3) of this section. If the owner or operator elects to comply with either paragraph (j)(2) or (3) of this section, the owner or operator shall notify the Administrator of this choice in the Notification of Compliance Status required by § 63.1439(e)(5).

(1) The owner or operator shall comply with the monitoring, recordkeeping and reporting requirements of this subpart.

(2) The owner or operator shall comply with the monitoring, recordkeeping and reporting requirements in 40 CFR part 264, with the following exception. All excursions, as defined in § 63.1438(f), shall be reported in the periodic report. Compliance with this paragraph shall constitute compliance with the monitoring, recordkeeping and reporting requirements of this subpart.

(3) The owner or operator shall comply with the monitoring and recordkeeping requirements of 40 CFR part 265, subpart AA or subpart CC, and the periodic reporting requirements under 40 CFR part 264, subpart AA or subpart CC, that would apply to the device if the facility had final-permitted status, with the following exception. All excursions, as defined in § 63.1438(f), shall be reported in the periodic report. Compliance with this paragraph shall constitute compliance with the monitoring, recordkeeping and reporting requirements of this subpart.

(k) Paragraphs (k)(1) and (2) of this section address instances in which requirements from other regulations overlap for the same heat exchange

system(s) or waste management unit(s) that are subject to this subpart.

(1) After the applicable compliance date specified in this subpart, if a heat exchange system subject to this subpart is also subject to a standard identified in paragraph (k)(1)(i) or (ii) of this section, compliance with the applicable provisions of the standard identified in paragraph (k)(1)(i) or (ii) shall constitute compliance with the applicable provisions of this subpart with respect to that heat exchange system.

(i) 40 CFR part 63, subpart F.

(ii) A subpart of this part which requires compliance with the HON heat exchange system requirements in § 63.104 (e.g., 40 CFR part 63, subpart JJJ or U).

(2) After the applicable compliance date specified in this subpart, if any waste management unit subject to this subpart is also subject to a standard identified in paragraph (k)(2)(i) or (ii) of this section, compliance with the applicable provisions of the standard identified in paragraph (k)(2)(i) or (ii) shall constitute compliance with the applicable provisions of this subpart with respect to that waste management unit.

(i) 40 CFR part 63, subpart G.

(ii) A subpart of this part which requires compliance with the HON process wastewater provisions in §§ 63.132 through 63.147 (e.g., subpart JJJ or U).

(l) All terms in this subpart that define a period of time for completion of required tasks (e.g., monthly, quarterly, annual), unless specified otherwise in the section or subsection that imposes the requirement, refer to the standard calendar periods, unless altered by mutual agreement between the owner or operator and the Administrator in accordance with paragraph (l)(1) of this section.

(1) Notwithstanding time periods specified in this subpart for completion of required tasks, such time periods may be changed by mutual agreement between the owner or operator and the Administrator, as specified in the General Provisions in 40 CFR part 63, subpart A (e.g., a period could begin on the compliance date or another date, rather than on the first day of the standard calendar period). For each time period that is changed by agreement, the revised period shall remain in effect until it is changed. A new request is not necessary for each recurring period.

(2) Where the period specified for compliance is a standard calendar period, if the initial compliance date occurs after the beginning of the period, compliance shall be required according to the schedule specified in paragraphs

(l)(2)(i) or (ii) of this section, as appropriate.

(i) Compliance shall be required before the end of the standard calendar period within which the compliance deadline occurs, if there remains at least 2 weeks for tasks that shall be performed monthly, at least 1 month for tasks that shall be performed each quarter, or at least 3 months for tasks that shall be performed annually; or

(ii) In all other cases, compliance shall be required before the end of the first full standard calendar period after the period within which the initial compliance deadline occurs.

(3) In all instances where a provision of this subpart requires completion of a task during each of multiple successive periods, an owner or operator may perform the required task at any time during the specified period, provided that the task is conducted at a reasonable interval after completion of the task during the previous period.

§ 63.1423 Definitions.

(a) The following terms used in this subpart shall have the meaning given them in subparts A (§ 63.2), F (§ 63.101), G (§ 63.111), and H (§ 63.161) as specified after each term:

Act (subpart A)
Administrator (subpart A)
Automated monitoring and recording system (subpart G)
Boiler (subpart G)
Bottoms receiver (subpart H)
By-product (subpart F)
Car-seal (subpart G)
Closed-vent system (subpart G)
Combustion device (subpart G)
Commenced (subpart A)
Compliance date (subpart A)
Continuous monitoring system (subpart A)
Emission standard (subpart A)
EPA (subpart A)
Equipment (subpart H)
Flow indicator (subpart G)
Fuel gas (subpart F)
Fuel gas system (subpart F)
Hard-piping (subpart G)
Heat exchange system (subpart F)
Impurity (subpart F)
Incinerator (subpart G)
Major source (subpart A)
Malfunction (subpart A)
Open-ended valve or line (subpart H)
Operating permit (subpart F)
Organic monitoring device (subpart G)
Owner or operator (subpart A)
Performance evaluation (subpart A)
Performance test (subpart A)
Permitting authority (subpart A)
Plant site (subpart F)
Potential to emit (subpart A)
Primary fuel (subpart G)
Process heater (subpart G)
Process unit shutdown (subpart H)
Reactor (subpart G)
Recapture device (subpart G)
Relief valve (subpart G)

Research and development facility (subpart F)
 Run (subpart A)
 Secondary fuel (subpart G)
 Sensor (subpart H)
 Specific gravity monitoring device (subpart G)
 Start-up, shutdown, and malfunction plan (subpart F)
 State (subpart A)
 Surge control vessel (subpart H)
 Temperature monitoring device (subpart G)
 Test method (subpart A)
 Total resource effectiveness index value (subpart G)
 Treatment process (subpart G)
 Visible emission (subpart A)

(b) All other terms used in this subpart shall have the meaning given them in this section.

Annual average concentration, as used in conjunction with the wastewater provisions, means the flow-weighted annual average concentration and is determined by the procedures in § 63.144(b), except as provided in § 63.1433(a)(2).

Annual average flow rate, as used in conjunction with the wastewater provisions, is determined by the procedures in § 63.144(c).

Batch cycle means the step or steps, from start to finish, that occur in a batch unit operation.

Batch unit operation means a unit operation involving intermittent or discontinuous feed into equipment, and, in general, involves the emptying of equipment after the batch cycle ceases and prior to beginning a new batch cycle. Mass, temperature, concentration and other properties of the process may vary with time. Addition of raw material and withdrawal of product do not simultaneously occur in a batch unit operation.

Catalyst extraction means the removal of the catalyst using either solvent or physical extraction method.

Construction means the on-site fabrication, erection, or installation of an affected source. Construction also means the on-site fabrication, erection, or installation of a process unit or a combination of process units which subsequently becomes an affected source or part of an affected source due to a change in primary product.

Continuous record means documentation, either in hard copy or computer readable form, of data values measured at least once during approximately equal intervals of 15 minutes and recorded at the frequency specified in § 63.1439(d).

Continuous recorder is defined in § 63.111, except that when the definition in § 63.111 reads "or records 15-minute or more frequent block average values," the phrase "or records

1-hour or more frequent block average values" shall apply for purposes of this subpart.

Continuous unit operation means a unit operation where the inputs and outputs flow continuously. Continuous unit operations typically approach steady-state conditions. Continuous unit operations typically involve the simultaneous addition of raw material and withdrawal of the product.

Control technique means any equipment or process control used for capturing, recovering, or oxidizing organic hazardous air pollutant vapors. Such equipment includes, but is not limited to, absorbers, adsorbers, boilers, condensers, flares, incinerators, process heaters, and scrubbers, or any combination thereof. Process control includes extended cookout (as defined in this section). Condensers operating as reflux condensers that are necessary for processing, such as liquid level control, temperature control, or distillation operation, shall be considered inherently part of the process and will not be considered control techniques.

Emission point means an individual process vent, storage vessel, wastewater stream, or equipment leak.

Epoxide means a chemical compound consisting of a three-membered cyclic ether. Only emissions of epoxides listed in Table 4 of this subpart (i.e., ethylene oxide and propylene oxide) are regulated by the provisions of this subpart.

Equipment leak means emissions of organic HAP from a pump, compressor, agitator, pressure relief device, sampling connection system, open-ended valve or line, valve, surge control vessel, bottoms receiver, or instrumentation system in organic HAP service.

Extended Cookout (ECO) means a control technique that reduces the amount of unreacted ethylene oxide (EO) and/or propylene oxide (PO) (epoxides) in the reactor. This is accomplished by allowing the product to react for a longer time period, thereby having less unreacted epoxides and reducing epoxides emissions that may have otherwise occurred.

Flexible operation unit means a process unit that manufactures different chemical products by periodically alternating raw materials fed to the process unit or operating conditions at the process unit. These units are also referred to as campaign plants or blocked operations.

Group 1 combination of batch process vents means a collection of process vents in a PMPU from batch unit operations that are associated with the use of a nonepoxide organic HAP to

make or modify the product that meet all of the following conditions:

(1) Has annual nonepoxide organic HAP emissions, determined in accordance with § 63.1428(b), of 11,800 kg/yr or greater, and

(2) Has a cutoff flow rate, determined in accordance with § 63.1428(e), that is greater than or equal to the annual average flow rate, determined in accordance with § 63.1428(d).

Group 2 combination of batch process vents means a collection of process vents in a PMPU from batch unit operations that are associated with the use of a nonepoxide organic HAP to make or modify the product that is not classified as a Group 1 combination of batch process vents.

Group 1 continuous process vent means a process vent from a continuous unit operation that is associated with the use of a nonepoxide organic HAP to make or modify the product that meets all of the following conditions:

(1) Has a flow rate greater than or equal to 0.005 standard cubic meters per minute,

(2) Has a total organic HAP concentration greater than or equal to 50 parts per million by volume, and

(3) Has a total resource effectiveness index value, calculated in accordance with § 63.1428(h)(1), less than or equal to 1.0.

Group 2 continuous process vent means a process vent from a continuous unit operation that is associated with the use of a nonepoxide organic HAP to make or modify the product that is not classified as a Group 1 continuous process vent.

Group 1 storage vessel means a storage vessel that meets the applicability criteria specified in Table 3 of this subpart.

Group 2 storage vessel means a storage vessel that does not fall within the definition of a Group 1 storage vessel.

Group 1 wastewater stream means a process wastewater stream at an existing or new affected source that meets the criteria for Group 1 status in § 63.132(c), with the exceptions listed in § 63.1433(a)(2) for the purposes of this subpart (i.e., for organic HAP listed on Table 4 of this subpart only).

Group 2 wastewater stream means any process wastewater stream as defined in § 63.101 at an existing affected source that does not meet the definition (in this section) of a Group 1 wastewater stream.

In organic hazardous air pollutant service or in organic HAP service means that a piece of equipment either contains or contacts a fluid (liquid or gas) that is at least 5 percent by weight of total organic HAP (as defined in this

section), as determined according to the provisions of § 63.180(d). The provisions of § 63.180(d) also specify how to determine that a piece of equipment is not in organic HAP service.

Initial start-up means the first time a new or reconstructed affected source begins production, or, for equipment added or changed as described in § 63.1420(g), the first time the equipment is put into operation to produce a polyether polyol. Initial start-up does not include operation solely for testing equipment. Initial start-up does not include subsequent start-ups of an affected source or portion thereof following malfunctions or shutdowns or following changes in product for flexible operation units. Further, for purposes of § 63.1422, initial start-up does not include subsequent start-ups of affected sources or portions thereof following malfunctions or process unit shutdowns.

Maintenance wastewater is defined in § 63.101, except that the term "polyether polyol manufacturing process unit" shall apply whenever the term "chemical manufacturing process unit" is used. Further, the generation of wastewater from the routine rinsing or washing of equipment in batch operation between batches is not maintenance wastewater, but is considered to be process wastewater, for the purposes of this subpart.

Make or modify the product means to produce the polyether polyol by polymerization of epoxides or other cyclic ethers with compounds having one or more reactive hydrogens, and to incorporate additives (e.g., preservatives, antioxidants, or diluents) in order to maintain the quality of the finished products before shipping. Making and modifying the product for this regulation does not include grafting, polymerizing the polyol, or reacting it with compounds other than EO or PO.

Maximum true vapor pressure is defined in § 63.111, except that the terms "transfer" and "transferred" shall not apply for the purposes of this subpart.

New process unit means a process unit for which the construction or reconstruction commenced after September 4, 1997.

On-site or on site means, with respect to records required to be maintained by this subpart or required by another subpart referenced by this subpart, a location within the plant site where the affected source is located. On-site storage of records includes, but is not limited to, a location at the affected source or PMPU to which the records pertain or a location elsewhere at the

plant site where the affected source is located.

Operating day refers to the 24-hour period defined by the owner or operator in the Notification of Compliance Status required by § 63.1439(e)(5). That 24-hour period may be from midnight to midnight or another 24-hour period. The operating day is the 24-hour period for which daily average monitoring values are determined.

Organic hazardous air pollutant(s) (organic HAP) means one or more of the chemicals listed in Table 4 of this subpart, or any other chemical which:

- (1) Is knowingly produced or introduced into the manufacturing process other than as an impurity; and
- (2) Is listed in Table 2 of 40 CFR part 63, subpart F in the HON.

Polyether polyol means a compound formed through the polymerization of EO or PO or other cyclic ethers with compounds having one or more reactive hydrogens (i.e., a hydrogen atom bonded to nitrogen, oxygen, phosphorus, sulfur, etc.) to form polyethers (i.e., compounds with two or more ether bonds). This definition of "polyether polyol" excludes hydroxy ethyl cellulose and materials regulated under 40 CFR part 63, subparts F, G, and H (the HON), such as glycols and glycol ethers.

Polyether polyol manufacturing process unit (PMPU) means a process unit that manufactures a polyether polyol as its primary product, or a process unit designated as a polyether polyol manufacturing unit in accordance with § 63.1420(e)(2). A polyether polyol manufacturing process unit consists of more than one unit operation. This collection of equipment includes purification systems, reactors and their associated product separators and recovery devices, distillation units and their associated distillate receivers and recovery devices, other associated unit operations, storage vessels, surge control vessels, bottoms receivers, product transfer racks, connected ducts and piping, combustion, recovery, or recapture devices or systems, and the equipment (i.e., all pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, and instrumentation systems that are associated with the PMPU) that are subject to the equipment leak provisions as specified in § 63.1434.

Pressure decay curve is the graph of the reactor pressure versus time from the point when epoxide feed is stopped until the reactor pressure is constant, indicating that most of the epoxide has reacted out of the vapor and liquid

phases. This curve shall be determined with no leaks or vents from the reactor.

Primary product is defined in and determined by the procedures specified in § 63.1420(e).

Process unit means a collection of equipment assembled and connected by pipes or ducts to process raw materials and to manufacture a product.

Process vent means a point of emission from a unit operation having a gaseous stream that is discharged to the atmosphere either directly or after passing through one or more combustion, recovery, or recapture devices. A process vent from a continuous unit operation is a gaseous emission stream containing more than 0.005 weight-percent total organic HAP. A process vent from a batch unit operation is a gaseous emission stream containing more than 225 kilograms per year (500 pounds per year) of organic HAP emissions. Unit operations that may have process vents are condensers, distillation units, reactors, or other unit operations within the PMPU. Process vents exclude pressure relief valve discharges, gaseous streams routed to a fuel gas system(s), and leaks from equipment regulated under § 63.1434. A gaseous emission stream is no longer considered to be a process vent after the stream has been controlled and monitored in accordance with the applicable provisions of this subpart.

Process wastewater means wastewater which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product. Examples are product tank drawdown or feed tank drawdown; water formed during a chemical reaction or used as a reactant; water used to wash impurities from organic products or reactants; equipment washes between batches in a batch process; water used to cool or quench organic vapor streams through direct contact; and condensed steam from jet ejector systems pulling vacuum on vessels containing organics.

Product means a compound or material which is manufactured by a process unit. By-products, isolated intermediates, impurities, wastes, and trace contaminants are not considered products.

Product class means a group of polyether polyols with a similar pressure decay curve (or faster pressure decay curves) that are manufactured within a given set of operating conditions representing the decline in pressure versus time. All products within a product class shall have an essentially similar pressure decay curve, and operate within a given set of

operating conditions. These operating conditions are: a minimum reaction temperature; the number of -OH groups in the polyol; a minimum catalyst concentration; the type of catalyst (e.g., self-catalyzed, base catalyst, or acid catalyst); the epoxide ratio, or a range for that ratio; and the reaction conditions of the system (e.g., the size of the reactor, or the size of the batch).

Reactor liquid means the compound or material made in the reactor, even though the substance may be transferred to another vessel. This material may require further modifications before becoming a final product, in which case the reactor liquid is classified as an "intermediate." This material may be complete at this stage, in which case the reactor liquid is classified as a "product."

Reconstruction means the replacement of components of an affected source or of a previously unaffected stationary source that becomes an affected source as a result of the replacement, to such an extent that:

(1) The fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable new source; and

(2) It is technologically and economically feasible for the reconstructed source to meet the provisions of this subpart.

Recovery device means an individual unit of equipment capable of and normally used for the purpose of recovering chemicals for fuel value (i.e., net positive heating value), use, reuse, or for sale for fuel value, use, or reuse. Examples of equipment that may be recovery devices include absorbers, carbon adsorbers, condensers (except reflux condensers), oil-water separators or organic-water separators, or organic removal devices such as decanters, strippers, or thin film evaporation units. For the purposes of the monitoring, recordkeeping, or reporting requirements of this subpart, recapture devices are considered to be recovery devices.

Residual is defined in § 63.111, except that when the definition in § 63.111 uses the term "Table 9 compounds," the term "organic HAP listed in Table 9 of subpart G" shall apply, for the purposes of this subpart.

Shutdown means the cessation of operation of an affected source, a PMPU within an affected source, a waste management unit or unit operation within an affected source, equipment required or used to comply with this subpart, or the emptying or degassing of a storage vessel. The purposes for a

shutdown may include, but are not limited to, periodic maintenance, replacement of equipment, or equipment repairs. Shutdown does not include the normal periods between batch cycles. For continuous unit operations, shutdown includes transitional conditions due to changes in product for flexible operation units. For batch unit operations, shutdown does not include transitional conditions due to changes in product for flexible operation units. For purposes of the wastewater provisions, shutdown does not include the routine rinsing or washing of equipment between batch cycles.

Start-up means the setting into operation of an affected source, a PMPU within the affected source, a waste management unit or unit operation within an affected source, equipment required or used to comply with this subpart, or a storage vessel after emptying and degassing. For all processes, start-up includes initial start-up and operation solely for testing equipment. Start-up does not include the recharging of batch unit operations. For continuous unit operations, start-up includes transitional conditions due to changes in product for flexible operation units. For batch unit operations, start-up does not include transitional conditions due to changes in product for flexible operation units.

Steady-state conditions means that all variables (temperatures, pressures, volumes, flow rates, etc.) in a process do not vary significantly with time; minor fluctuations about constant mean values may occur.

Storage vessel means a tank or other vessel that is used to store liquids that contain one or more organic HAP. Storage vessels do not include:

(1) Vessels permanently attached to motor vehicles such as trucks, railcars, barges, or ships;

(2) Pressure vessels designed to operate in excess of 204.9 kilopascals and without emissions to the atmosphere;

(3) Vessels with capacities smaller than 38 cubic meters;

(4) Vessels and equipment storing and/or handling material that contains no organic HAP, or organic HAP as impurities only;

(5) Surge control vessels and bottoms receiver tanks;

(6) Wastewater storage tanks; and

(7) Storage vessels assigned to another process unit regulated under another subpart of part 63.

Total organic compounds (TOC) are those compounds, excluding methane and ethane, measured according to the

procedures of Method 18 or Method 25A of 40 CFR part 60, appendix A.

Unit operation means one or more pieces of process equipment used to make a single change to the physical or chemical characteristics of one or more process streams. Unit operations include, but are not limited to, reactors, distillation units, extraction columns, absorbers, decanters, condensers, and filtration equipment.

Vent stream, as used in reference to process vents, means the emissions from a process vent.

Waste management unit is defined in § 63.111, except that when the definition in § 63.111 uses the term "chemical manufacturing process unit," the term "PMPU" shall apply for the purposes of this subpart.

Wastewater means water that:

(1) Contains either

(i) An annual average concentration of organic HAP listed in Table 4 of this subpart of at least 5 parts per million by weight and has an annual average flow rate of 0.02 liter per minute or greater, or

(ii) An annual average concentration of organic HAP listed on Table 4 of this subpart of at least 10,000 parts per million by weight at any flow rate; and that

(2) Is discarded from a PMPU that is part of an affected source. Wastewater is process wastewater or maintenance wastewater.

§ 63.1424 Emission standards.

(a) Except as provided under paragraph (b) of this section, the owner or operator of an existing or new affected source shall comply with the provisions in:

(1) Sections 63.1425 through 63.1430 for process vents;

(2) Section 63.1432 for storage vessels;

(3) Section 63.1433 for wastewater;

(4) Section 63.1434 for equipment leaks;

(5) Section 63.1435 for heat exchangers;

(6) Section 63.1437 for additional test methods and procedures;

(7) Section 63.1438 for monitoring levels and excursions; and

(8) Section 63.1439 for general reporting and recordkeeping requirements.

(b) When emissions of different kinds (i.e., emissions from process vents subject to §§ 63.1425 through 63.1430, storage vessels subject to § 63.1432, process wastewater, and/or in-process equipment subject to § 63.149) are combined, and at least one of the emission streams would require control according to the applicable provision in the absence of combination with other

emission streams, the owner or operator shall comply with the requirements of either paragraph (b)(1) or (2) of this section.

(1) Comply with the applicable requirements of this subpart for each kind of emission in the stream as specified in paragraphs (a)(1) through (5) of this section; or

(2) Comply with the most stringent set of requirements that applies to any individual emission stream that is included in the combined stream, where either that emission stream would be classified as requiring control in the absence of combination with other emission streams, or the owner chooses to consider that emission stream to require control for the purposes of this paragraph.

§ 63.1425 Process vent control requirements.

(a) *Applicability of process vent control requirements.* For each process vent at an affected source, the owner or operator shall comply with the provisions of this section. Owners and operators of all affected sources using epoxides in the production of polyether polyols are subject to the requirements of paragraph (b) of this section. Owners or operators are subject to the requirements of paragraph (c) of this section only if epoxides are used in the production of polyether polyols and nonepoxide organic HAP are used to make or modify the product. Similarly, owners or operators are subject to the requirements of paragraph (d) of this section only if epoxides are used in the production of polyether polyols and organic HAP are used in catalyst extraction. The owner or operator of an affected source where polyether polyol products are produced using tetrahydrofuran shall comply with paragraph (f) of this section.

(b) *Requirements for epoxide emissions.* The owner or operator of an affected source where polyether polyol products are produced using epoxides shall reduce epoxide emissions from process vents from batch unit operations and continuous unit operations within each PMPU in accordance with either paragraph (b)(1) or (2) of this section.

(1) For new affected sources, the owner or operator shall comply with paragraph (b)(1)(i), (ii), or (iii) of this section. The owner or operator also has the option of complying with a combination of paragraphs (b)(1)(i) and (ii) of this section. If the owner or operator chooses to comply with a combination of paragraphs (b)(1)(i) and (ii) of this section, each process vent not controlled in accordance with paragraph (b)(1)(ii) of this section shall be part of

the group of applicable process vents that shall then comply with paragraph (b)(1)(i) of this section.

(i) Reduce the total epoxide emissions from the group of applicable process vents by an aggregated 99.9 percent;

(ii) Maintain an outlet concentration of total epoxides or TOC after each combustion, recapture, or recovery device of 20 ppmv or less; or

(iii) Maintain an emission factor of no greater than 4.43×10^{-3} kilogram epoxide emissions per megagram of product (4.43×10^{-3} pounds epoxide emissions per 1,000 pounds of product) for all process vents in the PMPU.

(2) For existing affected sources, the owner or operator shall comply with either paragraph (b)(2)(i), (ii), (iii), or (iv) of this section. The owner or operator also has the option of complying with a combination of paragraphs (b)(2)(ii) and (iii) of this section. If the owner or operator chooses to comply with a combination of paragraphs (b)(2)(ii) and (iii) of this section, each process vent that is not controlled in accordance with paragraph (b)(2)(iii) of this section shall be part of the group of applicable process vents that shall then comply with paragraph (b)(2)(ii) of this section. The owner or operator also has the option of complying with a combination of paragraphs (b)(2)(i) and (iii) of this section.

(i) Reduce the total epoxide emissions from each process vent using a flare;

(ii) Reduce the total epoxide emissions from the group of applicable process vents by an aggregated 98 percent;

(iii) Maintain an outlet concentration of total epoxides or TOC after each combustion, recapture or recovery devices of 20 ppmv or less; or

(iv) Maintain an emission factor of no greater than 1.69×10^{-2} kilogram epoxide emissions per megagram of product (1.69×10^{-2} pounds epoxide emissions per 1,000 pounds of product) for all process vents in the PMPU.

(c) *Requirements for nonepoxide organic HAP emissions from making or modifying the product.* The owner or operator of a new or existing source where polyether polyols are produced using epoxides, and where nonepoxide organic HAP are used to make or modify the product, shall comply with this paragraph. For each process vent from a continuous unit operation that is associated with the use of a nonepoxide organic HAP to make or modify the product, the owner or operator shall determine if the process vent is a Group 1 continuous process vent, as defined in § 63.1423. For the combination of process vents from batch unit operations

that are associated with the use of a nonepoxide organic HAP to make or modify the product, the owner or operator shall determine if the combination of process vents is a Group 1 combination of batch process vents, as defined in § 63.1423.

(1) *Requirements for Group 1 combinations of batch process vents.* For each Group 1 combination of batch process vents, as defined in § 63.1423, the owner or operator shall comply with either paragraph (c)(1)(i) or (ii) of this section.

(i) Reduce nonepoxide organic HAP emissions using a flare.

(ii) Reduce nonepoxide organic HAP emissions by 90 percent using a combustion, recovery, or recapture device.

(2) *Requirements for Group 2 combinations of batch process vents.* For each Group 2 combination of batch process vents, as defined in § 63.1423, the owner or operator reassesses the group status when process changes occur, in accordance with the provisions of § 63.1428(g). No control requirements apply to these process vents.

(3) *Requirements for Group 1 continuous process vents.* For each Group 1 continuous process vent, as defined in § 63.1423, the owner or operator shall comply with either paragraph (c)(3)(i) or (ii) of this section.

(i) Reduce nonepoxide organic HAP emissions using a flare.

(ii) Reduce nonepoxide organic HAP emissions by 98 percent using a combustion, recovery, or recapture device.

(4) *Requirements for Group 2 continuous process vents.* For each Group 2 continuous process vent, as defined in § 63.1423, the owner or operator shall comply with either paragraph (c)(4)(i) or (ii) of this section.

(i) If the TRE for the process vent is greater than 1.0 but less than 4.0, the owner or operator shall comply with the monitoring provisions in § 63.1429, the recordkeeping provisions in § 63.1430(d), and recalculate the TRE index value when process changes occur, in accordance with the provisions in § 63.1428(h)(2).

(ii) If the TRE for the process vent is greater than 4.0, the owner or operator shall recalculate the TRE index value when process changes occur, in accordance with the provisions in § 63.1428(h)(2).

(d) *Requirements for nonepoxide organic HAP emissions from catalyst extraction.* The owner or operator of a new or existing affected source where polyether polyol products are produced using epoxide compounds shall comply with either paragraph (d)(1) or (2) of this

section. A PMPU that does not use any nonepoxide organic HAP in catalyst extraction is exempt from the requirements of this paragraph.

(1) Reduce emissions of nonepoxide organic HAP from all process vents associated with catalyst extraction using a flare; or

(2) Reduce emissions of nonepoxide organic HAP from the sum total of all process vents associated with catalyst extraction by an aggregated 90 percent for each PMPU.

(e) [Reserved]

(f) *Requirements for process vents at PMPUs that produce polyether polyol products using tetrahydrofuran.* For each process vent in a PMPU that uses tetrahydrofuran (THF) to produce one or more polyether polyol products that is, or is part of, an affected source, the owner or operator shall comply with the HON process vent requirements in §§ 63.113 through 63.118, except as provided for in paragraphs (f)(1) through (10) of this section.

(1) When December 31, 1992 is referred to in the HON process vent requirements in § 63.113, it shall be replaced with September 4, 1997, for the purposes of this subpart.

(2) When § 63.151(f), alternative monitoring parameters, and § 63.152(e), submission of an operating permit application, are referred to in §§ 63.114(c) and 63.117(e), § 63.1439(f), alternative monitoring parameters, and § 63.1439(e)(8), submission of an operating permit application, respectively, shall apply for the purposes of this subpart.

(3) When the Notification of Compliance Status requirements contained in § 63.152(b) are referred to in §§ 63.114, 63.117, and 63.118, the Notification of Compliance Status requirements contained in § 63.1439(e)(5) shall apply for the purposes of this subpart.

(4) When the Periodic Report requirements contained in § 63.152(c) are referred to in §§ 63.117 and 63.118, the Periodic Report requirements contained in § 63.1439(e)(6) shall apply for the purposes of this subpart.

(5) When the definition of excursion in § 63.152(c)(2)(ii)(A) is referred to in § 63.118(f)(2), the definition of excursion in § 63.1438(f) shall apply for the purposes of this subpart.

(6) When § 63.114(e) specifies that an owner or operator shall submit the information required in § 63.152(b) in order to establish the parameter monitoring range, the owner or operator shall comply with the provisions of § 63.1438 for establishing the parameter monitoring level and shall comply with § 63.1439(e)(5)(ii) or § 63.1439(e)(8) for

the purposes of reporting information related to the establishment of the parameter monitoring level, for the purposes of this subpart. Further, the term "level" shall apply whenever the term "range" is used in §§ 63.114, 63.117, and 63.118.

(7) When reports of process changes are required under § 63.118(g), (h), (i), or (j), paragraphs (f)(7)(i) through (iv) of this section shall apply for the purposes of this subpart.

(i) For the purposes of this subpart, whenever a process change, as defined in § 63.115(e), is made that causes a Group 2 process vent to become a Group 1 process vent, the owner or operator shall submit a report within 180 days after the process change is made or the information regarding the process change is known to the owner or operator. This report may be included in the next Periodic Report. A description of the process change shall be included in this report.

(ii) Whenever a process change, as defined in § 63.115(e), is made that causes a Group 2 process vent with a TRE greater than 4.0 to become a Group 2 process vent with a TRE less than 4.0, the owner or operator shall submit a report within 180 days after the process change is made or the information regarding the process change is known to the owner or operator, unless the flow rate is less than 0.005 standard cubic meters per minute. This report may be included in the next Periodic Report. A description of the process change shall be included in this report.

(iii) Whenever a process change, as defined in § 63.115(e), is made that causes a Group 2 process vent with a flow rate less than 0.005 standard cubic meter per minute (scmm) to become a Group 2 process vent with a flow rate of 0.005 scmm or greater and a TRE index value less than or equal to 4.0, the owner or operator shall submit a report within 180 days after the process change is made or the information regarding the process change is known to the owner or operator, unless the organic HAP concentration is less than 50 ppmv. This report may be included in the next Periodic Report. A description of the process change shall be submitted with the report.

(iv) Whenever a process change, as defined in § 63.115(e), is made that causes a Group 2 process vent with an organic HAP concentration less than 50 parts per million by volume (ppmv) to become a Group 2 process vent with an organic HAP concentration of 50 ppmv or greater and a TRE index value less than or equal to 4.0, the owner or operator shall submit a report within 180 days after the process change is

made or the information regarding the process change is known to the owner or operator, unless the flow rate is less than 0.005 standard cubic meters per minute. This report may be included in the next Periodic Report. A description of the process change shall be submitted with this report.

(8) When § 63.118 refers to § 63.152(f), the recordkeeping requirements in § 63.1439(d) shall apply for the purposes of this subpart.

(9) When §§ 63.115 and 63.116 refer to Table 2 of 40 CFR part 63, subpart F, the owner or operator shall only consider organic HAP as defined in this subpart.

(10) When the provisions of § 63.116(c)(3) and (4) specify that Method 18, 40 CFR part 60, appendix A shall be used, Method 18 or Method 25A, 40 CFR part 60, appendix A may be used for the purposes of this subpart. The use of Method 25A, 40 CFR part 60, appendix A shall comply with paragraphs (f)(10)(i) and (ii) of this section.

(i) The organic HAP used as the calibration gas for Method 25A, 40 CFR part 60, appendix A shall be the single organic HAP representing the largest percent by volume of the emissions.

(ii) The use of Method 25A, 40 CFR part 60, appendix A is acceptable if the response from the high-level calibration gas is at least 20 times the standard deviation of the response from the zero calibration gas when the instrument is zeroed on the most sensitive scale.

§ 63.1426 Process vent requirements for determining organic HAP concentration, control efficiency, and aggregated organic HAP emission reduction for a PMPU.

(a) *Use of a flare.* When a flare is used to comply with § 63.1425(b)(1)(i) (in combination with other control techniques), (b)(2)(i), (c)(1)(i), (c)(3)(i), or (d)(1), the owner or operator shall comply with § 63.1437(c), and is not required to demonstrate the control efficiency for the flare, if the owner or operator chooses to assume a 98 percent control efficiency for that flare, as allowed under paragraph (e)(2)(i) of this section. In order to use only a flare to comply with § 63.1425(b)(1)(i), or to use a flare and apply a control efficiency greater than 98 percent, an owner or operator shall submit a request in accordance with § 63.6(g) in either the Precompliance Report described in § 63.1439(e)(4), or in a supplement to the precompliance report, as described in § 63.1439(e)(4)(vii).

(b) *Exceptions to performance tests.* An owner or operator is not required to conduct a performance test when a combustion, recovery, or recapture

device specified in paragraphs (b)(1) through (6) of this section is used to comply with § 63.1425(b), (c), or (d).

(1) A boiler or process heater with a design heat input capacity of 44 megawatts or greater.

(2) A boiler or process heater where the process vent stream is introduced with the primary fuel or is used as the primary fuel.

(3) A combustion, recovery, or recapture device for which a performance test was conducted within the preceding 5-year period, using the same Methods specified in this section and either no deliberate process changes have been made since the test, or the owner or operator can demonstrate that the results of the performance test, with or without adjustments, reliably demonstrate compliance despite process changes. The operating parameters reported under the previous performance test shall be sufficient to meet the parameter monitoring requirements in this subpart.

(4) A boiler or process heater burning hazardous waste for which the owner or operator:

(i) Has been issued a final hazardous waste permit under 40 CFR part 270 and complies with the requirements for hazardous waste burned in boilers and industrial furnaces in 40 CFR part 266, subpart H; or

(ii) Has certified compliance with the interim status requirements for hazardous waste burned in boilers and industrial furnaces in 40 CFR part 266, subpart H.

(5) A hazardous waste incinerator for which the owner or operator has been issued a final permit under 40 CFR part 270 and complies with the requirements for incinerators in 40 CFR part 264, subpart O, or has certified compliance with the interim status requirements for incinerators in 40 CFR part 265, subpart O.

(6) Combustion, recovery or recapture device (except for condensers) performance may be determined by using the design evaluation described in paragraph (f) of this section, provided that the combustion, recovery or recapture device receives less than 10 tons per year (9.1 megagrams per year) of uncontrolled organic HAP emissions from one or more PMPUs, determined in accordance with paragraph (d) of this section. If a combustion, recovery or recapture device exempted from testing in accordance with this paragraph receives more than 10 tons per year (9.1 megagrams per year) of uncontrolled organic HAP emissions from one or more PMPUs, the owner or operator shall comply with the performance test requirements in paragraph (c) of this

section and shall submit the test report in the next Periodic Report.

(c) *Determination of organic HAP concentration and control efficiency.* Except as provided in paragraphs (a) and (b) of this section, an owner or operator using a combustion, recovery, or recapture device to comply with an epoxide or organic HAP percent reduction efficiency requirement in § 63.1425(b)(1)(i), (b)(2)(ii), (c)(1)(ii), (c)(3)(ii), or (d)(2); an epoxide concentration limitation in § 63.1425(b)(1)(ii) or (b)(2)(ii); or an annual epoxide emission limitation in § 63.1425(b)(1)(iii) or (b)(2)(iv), shall conduct a performance test using the applicable procedures in paragraphs (c)(1) through (4) of this section. The organic HAP or epoxide concentration and percent reduction may be measured as total epoxide, total organic HAP, or as TOC minus methane and ethane according to the procedures specified. When conducting testing in accordance with this section, the owner or operator is only required to measure HAP of concern for the specific requirement for which compliance is being determined. For instance, to determine compliance with the epoxide emission requirement of § 63.1425(b), the owner or operator is only required to measure epoxide control efficiency or outlet concentration.

(1) *Sampling site location.* The sampling site location shall be determined as specified in paragraphs (c)(1)(i) and (ii) of this section.

(i) For determination of compliance with a percent reduction of total epoxide requirement in § 63.1425(b)(1)(i), (b)(2)(ii), or a percent reduction of total organic HAP requirement in § 63.1425(c)(1)(ii), (c)(3)(ii), or (d)(2), sampling sites shall be located at the inlet of the combustion, recovery, or recapture device as specified in paragraphs (c)(1)(i)(A), (B), and (C) of this section, and at the outlet of the combustion, recovery, or recapture device.

(A) For process vents from continuous unit operations, the inlet sampling site shall be determined in accordance with either paragraph (c)(1)(i)(A)(1) or (2) of this section.

(1) To demonstrate compliance with either the provisions for epoxide emissions in § 63.1425(b) or the provisions for nonepoxide organic HAP emissions from catalyst extraction in § 63.1425(d), the inlet sampling site shall be located after the exit from the continuous unit operation but before any recovery devices, or

(2) To demonstrate compliance with the requirements for nonepoxide organic HAP emissions from the use of

nonepoxide organic HAP in making or modifying the product in § 63.1425(c), the inlet sampling site shall be located after all control techniques to reduce epoxide emissions and after the final nonepoxide organic HAP recovery device.

(B) For process vents from batch unit operations, the inlet sampling site shall be determined in accordance with either paragraph (c)(1)(i)(B)(1) or (2) of this section.

(1) To demonstrate compliance with either the provisions for epoxide emissions in § 63.1425(b) or the provisions for nonepoxide organic HAP emissions from catalyst extraction in § 63.1425(d), the inlet sampling site shall be located after the exit from the batch unit operation but before any recovery device.

(2) To demonstrate compliance with the requirements for nonepoxide organic HAP emissions in making or modifying the product in § 63.1425(c), the inlet sampling site shall be located after all control techniques to reduce epoxide emissions but before any nonepoxide organic HAP recovery device.

(C) If a process vent stream is introduced with the combustion air or as a secondary fuel into a boiler or process heater with a design capacity less than 44 megawatts, selection of the location of the inlet sampling sites shall ensure the measurement of total organic HAP or TOC (minus methane and ethane) concentrations in all process vent streams and primary and secondary fuels introduced into the boiler or process heater.

(ii) To determine compliance with a parts per million by volume total epoxide or TOC limit in § 63.1425(b)(1)(ii) or (b)(2)(iii), the sampling site shall be located at the outlet of the combustion, recovery, or recapture device.

(2) [Reserved]

(3) *Testing conditions and calculation of TOC or total organic HAP concentration.* (i) Testing conditions shall be as specified in paragraphs (c)(3)(i)(A) through (E) of this section, as appropriate.

(A) Testing of process vents from continuous unit operations shall be conducted at maximum representative operating conditions, as described in § 63.1437(a)(1). Each test shall consist of three 1-hour runs. Gas stream volumetric flow rates shall be measured at approximately equal intervals of about 15 minutes during each 1-hour run. The organic HAP concentration (of the HAP of concern) shall be determined from samples collected in an integrated sample over the duration of each 1-hour

test run, or from grab samples collected simultaneously with the flow rate measurements (at approximately equal intervals of about 15 minutes). If an integrated sample is collected for laboratory analysis, the sampling rate shall be adjusted proportionally to reflect variations in flow rate. For gas streams from continuous unit operations, the organic HAP concentration or control efficiency used to determine compliance shall be the average organic HAP concentration or control efficiency of the three test runs.

(B) Testing of process vents from batch unit operations shall be conducted at absolute worst-case conditions or hypothetical worst-case conditions, as defined in paragraphs (c)(3)(i)(B)(1) through (5) of this section. Worst-case conditions are limited to the maximum production allowed in a State or Federal permit or regulation and the conditions specified in § 63.1437(a)(1). Gas stream volumetric flow rates shall be measured at 15-minute intervals, or at least once during the emission episode. The organic HAP or TOC concentration shall be determined from samples collected in an integrated sample over the duration of the test, or from grab samples collected simultaneously with the flow rate measurements (at approximately equal intervals of about 15 minutes). If an integrated sample is collected for laboratory analysis, the sampling rate shall be adjusted proportionally to reflect variations in flow rate.

(1) Absolute worst-case conditions are defined by the criteria presented in paragraph (c)(3)(i)(B)(1)(i) or (ii) of this section if the maximum load is the most challenging condition for the control device. Otherwise, absolute worst-case conditions are defined by the conditions in paragraph (c)(3)(i)(B)(1)(iii) of this section.

(i) The period in which the inlet to the control device will contain at least 50 percent of the maximum HAP load (in lbs) capable of being vented to the control device over any 8-hour period. An emission profile as described in paragraph (c)(3)(i)(B)(3)(i) of this section shall be used to identify the 8-hour period that includes the maximum projected HAP load.

(ii) A period of time in which the inlet to the control device will contain the highest HAP mass loading rate capable of being vented to the control device. An emission profile as described in paragraph (c)(3)(i)(B)(3)(i) of this section shall be used to identify the period of maximum HAP loading.

(iii) The period of time when the HAP loading or stream composition (including non-HAP) is most challenging for the control device. These conditions include, but are not limited to the following: periods when the stream contains the highest combined VOC and HAP load described by the emission profiles in paragraph (c)(3)(i)(B)(3) of this section; periods when the streams contain HAP constituents that approach limits of solubility for scrubbing media; or

periods when the streams contain HAP constituents that approach limits of adsorptivity for carbon adsorption systems.

(2) Hypothetical worst-case conditions are simulated test conditions that, at a minimum, contain the highest hourly HAP load of emissions that would be predicted to be vented to the control device from the emissions profile described in paragraph (c)(3)(i)(B)(3)(ii) or (iii) of this section.

(3) The owner or operator shall develop an emission profile for the vent to the control device that describes the characteristics of the vent stream at the inlet to the control device under worst case conditions. The emission profile shall be developed based on any one of the procedures described in paragraphs (c)(3)(i)(B)(3) (i) through (iii) of this section, as required by paragraph (c)(3)(i)(B) of this section.

(i) The emission profile shall consider all emission episodes that could contribute to the vent stack for a period of time that is sufficient to include all processes venting to the stack and shall consider production scheduling. The profile shall describe the HAP load to the device that equals the highest sum of emissions from the episodes that can vent to the control device in any given period, not to exceed 1 hour. Emissions per episode shall be divided by the duration of the episode only if the duration of the episode is longer than 1 hour, and emissions per episode shall be calculated using the procedures specified in Equation 1:

$$E = \sum_{i=1}^n P_i MW_i \times \frac{(V)(t)}{(R)(T)} \times \frac{P_i}{P_i - \sum_{i=1}^n (P_i)} \quad [\text{Equation 1}]$$

Where:

E = Mass of HAP emitted.

V = Purge flow rate at the temperature and pressure of the vessel vapor space.

R = Ideal gas law constant.

T = Temperature of the vessel vapor space (absolute).

P_i = Partial pressure of the individual HAP.

P_j = Partial pressure of individual condensable VOC compounds (including HAP).

P_T = Pressure of the vessel vapor space.

MW_i = Molecular weight of the individual HAP.

t = Time of purge.

n = Number of HAP compounds in the emission stream.

i = Identifier for a HAP compound.

j = Identifier for a condensable compound.

m = Number of condensable compounds (including HAP) in the emission stream.

(ii) The emission profile shall consist of emissions that meet or exceed the highest emissions that would be expected under actual processing conditions. The profile shall describe equipment configurations used to generate the emission events, volatility of materials processed in the equipment, and the rationale used to identify and characterize the emission events. The emissions may be based on using compounds more volatile than compounds actually used in the process(es), and the emissions may be

generated from all equipment in the process(es) or only selected equipment.

(iii) The emission profile shall consider the capture and control system limitations and the highest emissions that can be routed to the control device, based on maximum flow rate and concentrations possible because of limitations on conveyance and control equipment (e.g., fans, LEL alarms and safety bypasses).

(4) Three runs, each at a minimum of the complete duration of the batch venting episode or 1 hour, whichever is shorter, and a maximum of 8 hours, are required for performance testing. Each run shall occur over the same worst-case conditions, as defined in paragraph (c)(3)(i)(B) of this section.

(5) If a condenser is used to control the process vent stream(s), the worst case emission episode(s) shall represent a period of time in which a process vent from the batch cycle or combination of cycles (if more than one cycle is vented through the same process vent) will require the maximum heat removal capacity, in Btu/hr, to cool the process vent stream to a temperature that, upon calculation of HAP concentration, will yield the required removal efficiency for the entire cycle. The calculation of maximum heat load shall be based on the emission profile described in paragraph (c)(3)(i)(B)(3) of this section that will allow calculation of sensible and latent heat loads.

(ii) The concentration of either TOC (minus methane or ethane) or total organic HAP (of the HAP of concern) shall be calculated according to paragraph (c)(3)(ii)(A) or (B) of this section.

(A) The TOC concentration (C_{TOC}) is the sum of the concentrations of the individual components and shall be computed for each run using Equation 2:

$$C_{\text{TOC}} = \sum_{j=1}^n \frac{\left(\sum_{i=1}^x C_{ji} \right)}{x} \quad [\text{Equation 2}]$$

Where:

C_{TOC} = Concentration of TOC (minus methane and ethane), dry basis, parts per million by volume.

C_{ji} = Concentration of sample components j of sample i , dry basis, parts per million by volume.

n = Number of components in the sample.

x = Number of samples in the sample run.

(B) The total organic HAP concentration (C_{HAP}) shall be computed according to Equation 2, except that only the organic HAP species shall be summed.

(iii) The concentration of TOC or total organic HAP shall be corrected to 3 percent oxygen if a combustion device is used.

(A) The emission rate correction factor or excess air, integrated sampling and analysis procedures of Method 3B of 40 CFR part 60, appendix A shall be used to determine the oxygen concentration ($\%O_{2d}$). The samples shall be taken during the same time that the TOC (minus methane or ethane) or total organic HAP samples are taken.

(B) The concentration corrected to 3 percent oxygen shall be computed using Equation 3, as follows:

$$C_c = C_m \left(\frac{17.9}{20.9 - \%O_{2d}} \right) \quad [\text{Equation 3}]$$

Where:

C_c = Concentration of TOC or organic HAP corrected to 3 percent oxygen, dry basis, parts per million by volume.

C_m = Concentration of TOC (minus methane and ethane) or organic HAP, dry basis, parts per million by volume.

$\%O_{2d}$ = Concentration of oxygen, dry basis, percent by volume.

(4) *Test methods.* When testing is conducted to measure emissions from an affected source, the test methods specified in paragraphs (c)(4)(i) through (iv) of this section shall be used, as applicable.

(i) For sample and velocity traverses, Method 1 or 1A of appendix A of part 60 shall be used, as appropriate, except that references to particulate matter in Method 1A do not apply for the purposes of this subpart.

(ii) The velocity and gas volumetric flow rate shall be determined using Method 2, 2A, 2C, or 2D of 40 CFR part 60, appendix A, as appropriate.

(iii) The concentration measurements shall be determined using the methods described in paragraphs (c)(4)(iii)(A) through (C) of this section.

(A) Method 18 of appendix A of part 60 may be used to determine the HAP concentration in any control device efficiency determination.

(B) Method 25 of appendix A of part 60 may be used to determine total gaseous nonmethane organic concentration for control efficiency determinations in combustion devices.

(C) Method 25A of appendix A of part 60 may be used to determine the HAP or TOC concentration for control device efficiency determinations under the conditions specified in Method 25 of appendix A of part 60 for direct measurements of an effluent with a flame ionization detector, or in demonstrating compliance with the 20 ppmv standard, the instrument shall be calibrated on methane or the predominant HAP. If calibrating on the predominant HAP, the use of Method 25A of appendix A of part 60 shall comply with paragraphs (c)(4)(iii)(C) (1) through (3) of this section.

(1) The organic HAP used as the calibration gas for Method 25A of appendix A of part 60 shall be the single organic HAP representing the largest percent by volume.

(2) The use of Method 25A, 40 CFR part 60, appendix A, is acceptable if the response from the high level calibration gas is at least 20 times the standard

deviation of the response from the zero calibration gas when the instrument is zeroed on the most sensitive scale.

(3) The span value of the analyzer shall be less than 100 ppmv.

(iv) Alternatively, any other method or data that have been validated according to the applicable procedures in 40 CFR part 63, appendix A, Method 301 may be used.

(5) *Calculation of percent reduction efficiency.* The following procedures shall be used to calculate percent reduction efficiency:

(i) Test duration shall be as specified in paragraphs (c)(3)(i)(A) through (B) of this section, as appropriate.

(ii) The mass rate of either TOC (minus methane and ethane) or total organic HAP of the HAP of concern (E_i , E_o) shall be computed.

(A) The following equations shall be used:

$$E_i = K_2 \left(\sum_{j=1}^n C_{ij} M_{ij} \right) Q_i \quad [\text{Equation 4}]$$

$$E_o = K_2 \left(\sum_{j=1}^n C_{oj} M_{oj} \right) Q_o \quad [\text{Equation 5}]$$

Where:

C_{ij} , C_{oj} = Concentration of sample component j of the gas stream at the inlet and outlet of the combustion, recovery, or recapture device, respectively, dry basis, parts per million by volume.

E_i , E_o = Mass rate of TOC (minus methane and ethane) or total organic HAP at the inlet and outlet of the combustion, recovery, or recapture device, respectively, dry basis, kilogram per hour.

M_{ij} , M_{oj} = Molecular weight of sample component j of the gas stream at the inlet and outlet of the combustion, recovery, or recapture device, respectively, gram/gram-mole.

Q_i , Q_o = Flow rate of gas stream at the inlet and outlet of the combustion, recovery, or recapture device, respectively, dry standard cubic meter per minute.

K_2 = Constant, 2.494×10^{-6} (parts per million) $^{-1}$ (gram-mole per standard cubic meter) (kilogram/gram) (minute/hour), where standard temperature (gram-mole per standard cubic meter) is 20 °C.

(B) Where the mass rate of TOC is being calculated, all organic compounds (minus methane and ethane) measured by Method 18 of 40 CFR part 60, appendix A are summed using Equations 4 and 5 in paragraph (c)(5)(ii)(A) of this section.

(C) Where the mass rate of total organic HAP is being calculated, only the organic HAP species shall be summed using Equations 4 and 5 in paragraph (c)(5)(ii)(A) of this section.

(iii) The percent reduction in TOC (minus methane and ethane) or total organic HAP shall be calculated using Equation 6 as follows:

$$R = \frac{E_i - E_o}{E_i} (100) \quad [\text{Equation 6}]$$

Where:

R = Control efficiency of combustion, recovery, or recapture device, percent.

E_i = Mass rate of TOC (minus methane and ethane) or total organic HAP at the inlet to the combustion, recovery, or recapture device as calculated under paragraph (c)(5)(ii) of this section, kilograms TOC per hour or kilograms organic HAP per hour.

E_o = Mass rate of TOC (minus methane and ethane) or total organic HAP at the outlet of the combustion, recovery, or recapture device, as calculated under paragraph (c)(5)(iii) of this section, kilograms TOC per hour or kilograms organic HAP per hour.

(iv) If the process vent stream entering a boiler or process heater with a design capacity less than 44 megawatts is introduced with the combustion air or as a secondary fuel, the weight-percent reduction of total organic HAP or TOC (minus methane and ethane) across the device shall be determined by comparing the TOC (minus methane and ethane) or total organic HAP in all combusted process vent streams and primary and secondary fuels with the TOC (minus methane and ethane) or total organic HAP, respectively, exiting the combustion device.

(d) *Determination of uncontrolled organic HAP emissions.* For each process vent at a PMPU that is complying with the process vent control requirements in § 63.1425(b)(1)(i), (b)(1)(iii), (b)(2)(ii), (b)(2)(iv), (c)(1)(ii), or (d)(2) using a combustion, recovery, or recapture device, the owner or operator shall determine the

uncontrolled organic HAP emissions in accordance with the provisions of this paragraph, with the exceptions noted in paragraph (d)(1) of this section. The provisions of § 63.1427(c)(1) shall be used to calculate uncontrolled epoxide emissions prior to the onset of an extended cook out.

(1) *Exemptions.* The owner or operator is not required to determine uncontrolled organic HAP emissions for process vents in a PMPU if the conditions in paragraph (d)(1)(i), (ii), or (iii) of this section are met.

(i) For PMPUs where all process vents subject to the epoxide emission reduction requirements of § 63.1425(b) are controlled at all times using a combustion, recovery, or recapture device, or extended cookout, the owner or operator is not required to determine uncontrolled epoxide emissions.

(ii) For PMPUs where the combination of process vents from batch unit operations associated with the use of nonepoxide organic HAP to make or modify the product is subject to the Group 1 requirements of § 63.1425(c)(1), the owner or operator is not required to determine uncontrolled nonepoxide organic HAP emissions for those process vents if every process vent from a batch unit operation associated with the use of nonepoxide organic HAP to make or modify the product in the PMPU is controlled at all times using a combustion, recovery, or recapture device.

(iii) For PMPUs where all process vents associated with catalyst extraction that are subject to the organic emission reduction requirements of § 63.1425(d)(2) are controlled at all times using a combustion, recovery, or recapture device, the owner or operator is not required to determine uncontrolled organic HAP emissions for those process vents.

(2) *Process vents from batch unit operations.* The uncontrolled organic HAP emissions from an individual batch cycle for each process vent from a batch unit operation shall be determined using the procedures in the NESHAP for Group I Polymers and

Resins (40 CFR part 63, subpart U), § 63.488(b)(1) through (9). Uncontrolled emissions from process vents from batch unit operations shall be determined after the exit from the batch unit operation but before any recovery device.

(3) *Process vents from continuous unit operations.* The uncontrolled organic HAP emissions for each process vent from a continuous unit operation in a PMPU shall be determined at the location specified in paragraph (d)(3)(i) of this section, using the procedures in paragraph (d)(3)(ii) of this section.

(i) For process vents subject to either the provisions for epoxide emissions in § 63.1425(b) or the provisions for organic HAP emissions from catalyst extraction in § 63.1425(d), uncontrolled emissions shall be determined after the exit from the continuous unit operation but before any recovery device.

(ii) The owner or operator shall determine the hourly uncontrolled organic HAP emissions from each process vent from a continuous unit operation in accordance with paragraph (c)(4)(ii) of this section, except that the emission rate shall be determined at the location specified in paragraph (d)(2)(i) of this section.

(e) *Determination of organic HAP emission reduction for a PMPU.* (1) The owner or operator shall determine the organic HAP emission reduction for process vents in a PMPU that are complying with § 63.1425(b)(1)(i), (b)(2)(ii), (c)(1)(ii), or (d)(2) using Equation 7. The organic HAP emission reduction shall be determined for each group of process vents subject to the same paragraph (i.e., paragraph (b), (c), or (d)) of § 63.1425. For instance, process vents that emit epoxides are subject to paragraph (b) of § 63.1425. Therefore, if the owner or operator of an existing affected source is complying with the 98 percent reduction requirement in § 63.1425(b)(2)(ii), the organic HAP (i.e., epoxide) emission reduction shall be determined for the group of vents in a PMPU that are subject to this paragraph.

$$RED_{PMPU} = \left(\frac{\sum_{i=1}^n (E_{unc,i}) \left(\frac{R_i}{100} \right)}{\sum_{i=1}^n (E_{unc,i}) + \sum_{j=1}^m (E_{unc,j})} \right) * 100 \quad [\text{Equation 7}]$$

Where:

RED_{PMPU} = Organic HAP emission reduction for the group of process vents

subject to the same paragraph of § 63.1425, percent.

$E_{unc,i}$ = Uncontrolled organic HAP emissions from process vent i that is controlled using a combustion,

recovery, or recapture device, or extended cookout, kg/batch cycle for process vents from batch unit operations, kg/hr for process vents from continuous unit operations.

n = Number of process vents in the PMPU that are subject to the same paragraph of § 63.1425 and that are controlled using a combustion, recovery, or recapture device, or extended cookout.

R_i = Control efficiency of the combustion, recovery, or recapture device, or extended cookout, used to control organic HAP emissions from vent i , determined in accordance with paragraph (e)(2) of this section.

$E_{unc,j}$ = Uncontrolled organic HAP emissions from process vent j that is not controlled using a combustion, recovery, or recapture device, kg/batch cycle for process vents from batch unit operations, kg/hr for process vents from continuous unit operations.

m = Number of process vents in the PMPU that are subject to the same paragraph of § 63.1425 and that are not controlled using a combustion, recovery, or recapture device.

(2) The control efficiency, R_i , shall be assigned as specified below in paragraph (e)(2)(i), (ii), (iii), or (iv) of this section.

(i) If the process vent is controlled using a flare (and the owner or operator has not previously obtained approval to assume a control efficiency greater than 98 percent in accordance with § 63.6(g)) or a combustion device specified in paragraph (b)(1), (2), (4), or (5) of this section, and a performance test has not been conducted, the control efficiency shall be assumed to be 98 percent.

(ii) If the process vent is controlled using a combustion, recovery, or recapture device for which a performance test has been conducted in accordance with the provisions of paragraph (c) of this section, or for which a performance test that meets the requirements of paragraph (b)(3) of this section has been previously performed, the control efficiency shall be the efficiency determined by the performance test.

(iii) If epoxide emissions from the process vent are controlled using extended cookout, the control efficiency shall be the efficiency determined in accordance with § 63.1427(e).

(iv) If the process vent is controlled using a flare, and the owner or operator has obtained approval to assume a control efficiency greater than 98 percent in accordance with § 63.6(g), the control efficiency shall be the efficiency approved in accordance with § 63.6(g).

(f) *Design evaluation.* A design evaluation is required for those control

techniques that receive less than 10 tons per year (9.1 megagrams per year) of uncontrolled organic HAP emissions from one or more PMPU, if the owner or operator has chosen not to conduct a performance test for those control techniques in accordance with paragraph (b)(6) of this section. The design evaluation shall include documentation demonstrating that the control technique being used achieves the required control efficiency under worst-case conditions, as determined from the emission profile described in § 63.1426(c)(3)(i)(B)(3)(i).

(1) Except for ECO whose design evaluation is presented in paragraph (f)(2) of this section, to demonstrate that a control technique meets the required control efficiency, a design evaluation shall address the composition and organic HAP concentration of the vent stream, immediately preceding the use of the control technique. A design evaluation shall also address other vent stream characteristics and control technique operating parameters, as specified in any one of paragraphs (f)(1)(i) through (vi) of this section, depending on the type of control technique that is used. If the vent stream is not the only inlet to the control technique, the owner or operator shall also account for all other vapors, gases, and liquids, other than fuels, received into the control technique from one or more PMPUs, for purposes of the efficiency determination.

(i) For an enclosed combustion technique used to comply with the provisions of § 63.1425(b)(1), (c)(1), or (d), with a minimum residence time of 0.5 seconds and a minimum temperature of 760° C, the design evaluation shall document that these conditions exist.

(ii) For a combustion control technique that does not satisfy the criteria in paragraph (f)(1)(i) of this section, the design evaluation shall document the control efficiency and address the characteristics listed in paragraphs (f)(1)(ii)(A) through (C) of this section, depending on the type of control technique.

(A) For a thermal vapor incinerator, in the design evaluation the owner or operator shall consider the autoignition temperature of the organic HAP, shall consider the vent stream flow rate, and shall establish the design minimum and average temperatures in the combustion zone and the combustion zone residence time.

(B) For a catalytic vapor incinerator, in the design evaluation the owner or operator shall consider the vent stream flow rate and shall establish the design

minimum and average temperatures across the catalyst bed inlet and outlet.

(C) For a boiler or process heater, in the design evaluation the owner or operator shall consider the vent stream flow rate; shall establish the design minimum and average flame zone temperatures and combustion zone residence time; and shall describe the method and location where the vent stream is introduced into the flame zone.

(iii) For a condenser, in the design evaluation the owner or operator shall consider the vent stream flow rate, relative humidity, and temperature, and shall establish the design outlet organic HAP compound concentration level, design average temperature of the exhaust vent stream, and the design average temperatures of the coolant fluid at the condenser inlet and outlet. The temperature of the gas stream exiting the condenser shall be measured and used to establish the outlet organic HAP concentration.

(iv) For a carbon adsorption system that regenerates the carbon bed directly onsite as part of the control technique (such as a fixed-bed adsorber), in the design evaluation the owner or operator shall consider the vent stream flow rate, relative humidity, and temperature, and shall establish the design exhaust vent stream organic compound concentration level, adsorption cycle time, number and capacity of carbon beds, type and working capacity of activated carbon used for the carbon beds, design total regeneration stream mass or volumetric flow over the period of each complete carbon bed regeneration cycle, design carbon bed temperature after regeneration, design carbon bed regeneration time, and design service life of the carbon. For vacuum desorption, the pressure drop shall also be included.

(v) For a carbon adsorption system that does not regenerate the carbon bed directly onsite as part of the control technique (such as a carbon canister), in the design evaluation the owner or operator shall consider the vent stream mass or volumetric flow rate, relative humidity, and temperature, and shall establish the design exhaust vent stream organic compound concentration level, capacity of the carbon bed, type and working capacity of activated carbon used for the carbon bed, and design carbon replacement interval based on the total carbon working capacity of the control technique and source operating schedule.

(vi) For a scrubber, in the design evaluation the owner or operator shall consider the vent stream composition, constituent concentrations, liquid-to-

vapor ratio, scrubbing liquid flow rate and concentration, temperature, and the reaction kinetics of the constituents with the scrubbing liquid. The design evaluation shall establish the design exhaust vent stream organic compound concentration level and shall include the additional information in paragraphs (f)(1)(vi) (A) and (B) of this section for trays and a packed column scrubber.

(A) Type and total number of theoretical and actual trays

(B) Type and total surface area of packing for entire column and for individual packed sections, if the column contains more than one packed section.

(2) For ECO, the design evaluation shall establish the minimum duration (time) of the ECO, the maximum pressure at the end of the ECO, or the maximum epoxide concentration in the reactor liquid at the end of the ECO for each product class.

§ 63.1427 Process vent requirements for processes using extended cookout as an epoxide emission reduction technique.

(a) *Applicability of extended cookout requirements.* Owners or operators of affected sources that produce polyether polyols using epoxides, and that are using ECO as a control technique to reduce epoxide emissions in order to comply with percent emission reduction requirements in § 63.1425(b)(1)(i) or (b)(2)(ii) shall comply with the provisions of this section. The owner or operator that is using ECO in order to comply with the emission factor requirements in § 63.1425(b)(1)(iii) or § 63.1425(b)(2)(iv) shall demonstrate that the specified emission factor is achieved by following the requirements in § 63.1431. If additional control devices are used to further reduce the HAP emissions from a process vent already controlled by ECO, then the owner or operator shall also comply with the testing, monitoring, recordkeeping, and reporting

requirements associated with the additional control device, as specified in §§ 63.1426, 63.1429, and 63.1430, respectively.

(1) For each product class, the owner or operator shall determine the batch cycle percent epoxide emission reduction for the most difficult to control product in the product class, where the most difficult to control product is the polyether polyol that is manufactured with the slowest pressure decay curve.

(2) The owner or operator may determine the batch cycle percent epoxide emission reduction by directly measuring the concentration of the unreacted epoxide, or by using process knowledge, reaction kinetics, and engineering knowledge, in accordance with paragraph (a)(2)(i) of this section.

(i) If the owner or operator elects to use any method other than direct measurement, the epoxide concentration shall be determined by direct measurement for one product from each product class and compared with the epoxide concentration determined using the selected estimation method, with the exception noted in paragraph (a)(2)(ii) of this section. If the difference between the directly determined epoxide concentration and the calculated epoxide concentration is less than 25 percent, then the selected estimation method will be considered to be an acceptable alternative to direct measurement for that class.

(ii) If uncontrolled epoxide emissions prior to the end of the ECO are less than 10 tons per year (9.1 megagrams per year), the owner or operator is not required to perform the direct measurement required in paragraph (a)(2)(i) of this section. Uncontrolled epoxide emissions prior to the end of the ECO shall be determined by the procedures in paragraph (d)(1) of this section.

(b) Define the end of epoxide feed.

The owner or operator shall define the end of the epoxide feed in accordance with paragraph (b)(1) or (2) of this section.

(1) The owner or operator shall determine the concentration of epoxide in the reactor liquid at the point in time when all epoxide has been added to the reactor and prior to any venting. This concentration shall be determined in accordance with the procedures in paragraph (f)(1)(i) of this section.

(2) If the conditions in paragraphs (b)(2)(i), (ii), and (iii) of this section are met, the end of the epoxide feed may be defined by the reactor epoxide partial pressure at the point in time when all epoxide reactants have been added to the reactor. This reactor epoxide partial pressure shall be determined in accordance with the procedures in paragraph (g) of this section.

(i) No epoxide is emitted before the end of the ECO:

(ii) Extended cookout is the only control technique to reduce epoxide emissions; and

(iii) The owner or operator elects to determine the percent epoxide emission reduction for the ECO using reactor epoxide partial pressure in accordance with paragraph (e)(2) of this section.

(c) *Define the onset of the ECO.* The owner or operator shall calculate the uncontrolled emissions for the batch cycle by calculating the epoxide emissions, if any, prior to the onset of the ECO, plus the epoxide emissions at the onset of the ECO. The onset of the ECO is defined as the point in time when the combined unreacted epoxide concentration in the reactor liquid is equal to 25 percent of the concentration of epoxides at the end of the epoxide feed, which was determined in accordance with paragraph (b) of this section.

(1) The uncontrolled epoxide emissions for the batch cycle shall be determined using Equation 8.

$$E_{\text{un}} = (C_{\text{liq},i} / V_{\text{liq},i}) (D_{\text{liq},i}) + (C_{\text{vap},i} / V_{\text{vap},i}) (D_{\text{vap},i}) + (E_{\text{epox,bef}}) \quad [\text{Equation 8}]$$

Where:

E_{un} = Uncontrolled epoxide emissions at the onset of the ECO, kilograms per (kg)/batch.

$C_{\text{liq},i}$ = Concentration of epoxide in the reactor liquid at the onset of the ECO, which is equal to 25 percent of the concentration of epoxide at the end of the epoxide feed, determined in accordance with

paragraph (b)(1) of this section, weight percent.

$V_{\text{liq},i}$ = Volume of reactor liquid at the onset of the ECO, liters.

$D_{\text{liq},i}$ = Density of reactor liquid, kg/liter.

$C_{\text{vap},i}$ = Concentration of epoxide in the reactor vapor space at the onset of the ECO, determined in accordance with paragraph (f)(2) of this section, weight percent.

$V_{\text{vap},i}$ = Volume of the reactor vapor space at the onset of the ECO, liters.

$D_{\text{vap},i}$ = Vapor density of reactor vapor space at the onset of the ECO, kg/liter.

$E_{\text{epox,bef}}$ = Epoxide emissions that occur prior to the onset of the ECO, determined in accordance with the provisions of § 63.1426(d), kilograms.

(2) If the conditions in paragraphs (b)(2)(i), (ii), and (iii) of this section are met, the owner or operator may define the onset of the ECO as the point in time

when the reactor epoxide partial pressure equals 25 percent of the reactor epoxide partial pressure at the end of the epoxide feed, and is not required to determine the uncontrolled epoxide emissions in accordance with paragraph (c)(1) of this section.

(d) *Determine emissions at the end of the ECO.* The owner or operator shall calculate the epoxide emissions at the end of the ECO, where the end of the ECO is defined as the point immediately before the time when the reactor contents are emptied and/or the reactor

vapor space purged to the atmosphere or to a combustion, recovery, or recapture device.

(1) The epoxide emissions at the end of the ECO shall be determined using Equation 9.

$$E_{e,E} = (C_{liq,f})(V_{liq,f})(D_{liq,f}) + (C_{vap,f})(V_{vap,f})(D_{vap,f}) \quad \text{[Equation 9]}$$

Where:

$E_{e,E}$ = Epoxide emissions at the end of the ECO, kg.

$C_{liq,f}$ = Concentration of epoxide in the reactor liquid at the end of the ECO, determined in accordance with paragraph (f)(1) of this section, weight percent.

$V_{liq,f}$ = Volume of reactor liquid at the end of the ECO, liters.

$D_{liq,f}$ = Density of reactor liquid, kg/liter.

$C_{vap,f}$ = Concentration of epoxide in the reactor vapor space as it exits the

reactor at the end of the ECO, determined in accordance with paragraph (f)(2) of this section, weight percent.

$V_{vap,f}$ = Volume of the reactor vapor space as it exits the reactor at the end of the ECO, liters.

$D_{vap,f}$ = Vapor density of reactor vapor space at the end of the ECO, kg/liter.

(2) If the conditions in paragraphs (b)(2)(i), (ii), and (iii) of this section are

met, the owner or operator may determine the reactor epoxide partial pressure at the end of the ECO instead of determining the uncontrolled epoxide emissions at the end of the ECO in accordance with paragraph (d)(1) of this section.

(e) *Determine percent epoxide emission reduction.* (1) The owner or operator shall determine the percent epoxide emission reduction for the batch cycle using Equation 10.

$$R_{batchcycle} = \left[\frac{E_{e,u} - (E_{e,E}) \left(1 - \frac{R_{addon,i}}{100} \right) + (E_{e,o}) \left(1 - \frac{R_{addon,i}}{100} \right)}{E_{e,u}} \right] * 100 \quad \text{[Equation 10]}$$

Where:

$R_{batchcycle}$ = Epoxide emission reduction for the batch cycle, percent.

$E_{e,E}$ = Epoxide emissions at the end of the ECO determined in accordance with paragraph (d)(1) of this section, kilograms.

$R_{addon,i}$ = Control efficiency of combustion, recovery, or recapture device that is used to control epoxide emissions after the ECO, determined in accordance with the provisions of § 63.1426(c), percent.

$E_{e,o}$ = Epoxide emissions that occur before the end of the ECO, determined in accordance with the provisions of § 63.1426(d), kilograms.

$R_{addon,j}$ = Control efficiency of combustion, recovery, or recapture device that is used to control epoxide emissions that occur before the end of the ECO, determined in accordance with the provisions of § 63.1426(c), percent.

$E_{e,u}$ = Uncontrolled epoxide emissions determined in accordance with paragraph (c)(1) of this section, kilograms.

(2) If the conditions in paragraphs (b)(2)(i), (ii), and (iii) of this section are met, the owner or operator may determine the percent epoxide emission reduction for the batch cycle using

reactor epoxide partial pressure and Equation 11, instead of using the procedures in paragraph (e)(1) of this section.

Where:

$R_{batchcycle}$ = Epoxide emission reduction for the batch cycle, percent.

$P_{epox,i}$ = Reactor epoxide partial pressure at the onset of the ECO, determined in accordance with paragraph (c)(2) of this section, mm Hg.

$P_{epox,f}$ = Reactor epoxide partial pressure at the end of the ECO, determined in accordance with paragraph (c)(2) of this section, mm Hg.

(f) *Determination of epoxide concentrations.* The owner or operator shall determine the epoxide concentrations in accordance with the procedures in this paragraph.

(1) The owner or operator shall determine the concentration of epoxide in the reactor liquid using either direct measurement in accordance with paragraph (f)(1)(i) of this section, or reaction kinetics in accordance with paragraph (f)(1)(ii) of this section. An owner or operator may also request to use an alternative methodology in accordance with paragraph (f)(1)(iii) of this section.

(i) The owner or operator shall submit a standard operating procedure for obtaining the liquid sample, along with

the test method used to determine the epoxide concentration. This information shall be submitted in the Precompliance Report.

(ii) Determine the epoxide concentration in the reactor liquid using Equation 12. [Equation 12]

$$C_{liq,f} = C_{liq,i} e^{-kt} \quad \text{[Equation 12]}$$

$C_{liq,f}$ = Concentration of epoxide in the reactor liquid at the end of the time period, weight percent.

$C_{liq,i}$ = Concentration of epoxide in the reactor liquid at the beginning of the time period, weight percent.

k = Reaction rate constant, 1/hr.

t = Time, hours.

Note: This equation assumes a first order reaction with respect to epoxide concentration, where:

(iii) If the owner/operator deems that the methods listed in paragraphs (f)(1)(i) and (ii) of this section are not appropriate for the reaction system for a PMPU, then the owner/operator may submit a request for the use of an alternative method.

(2) The owner or operator shall determine the concentration of epoxide in the reactor vapor space using either direct measurement in accordance with paragraph (f)(2)(i) of this section, or by engineering estimation in accordance

with paragraph (f)(2)(ii) of this section. An owner or operator may also request to use an alternative methodology in accordance with paragraph (f)(2)(iii) of this section.

(i) The owner or operator shall take two representative samples from a bleed valve off the reactor's process vent. The owner or operator shall determine the total epoxide concentration using 40 CFR part 60, appendix A, Method 18.

(ii) Determine the epoxide concentration in the vapor space using Raoult's Law or another appropriate phase equilibrium equation and the liquid epoxide concentration,

determined in accordance with paragraph (f)(1) of this section.

(iii) If the owner/operator deems that the methods listed in paragraphs (f)(1)(i) and (ii) of this section are not appropriate for the reaction system for a PMPU, then the owner/operator may submit a request for the use of an alternative method.

(g) *Determination of pressure.* The owner or operator shall determine the total pressure of the system using standard pressure measurement devices calibrated according to the manufacturer's specifications or other written procedures that provide adequate assurance that the equipment

would reasonably be expected to monitor accurately.

(h) *Determination if pressure decay curves are similar.* The owner or operator shall determine the pressure decay curve as defined in § 63.1423. Products with similar pressure decay curves constitute a product class. To determine if two pressure decay curves are similar when the pressure decay curves for products have different starting and finishing pressures, the owner or operator shall determine the time when the pressure has fallen to half its total pressure by using Equation 13:

$$\text{Time } (P_{\text{half}}^1) - \text{Time } (P_{\text{half}}^2) \leq 20\% \text{ of } T_{\text{AVG}} \quad [\text{Equation 13}]$$

Where:

P_{half}^1 = Half the total pressure of the epoxide for product 1.

Time (P_{half}^1) = Time when the pressure has fallen to half its total pressure for product 1.

P_{half}^2 = Half the total pressure of the epoxide for product 2.

Time (P_{half}^2) = Time when the pressure has fallen to half its total pressure for product 2.

T_{AVG} P_{AVG} = The average time to cookout to the point where the epoxide pressure is 25 percent of the epoxide pressure at the end of the feed step for products 1 and 2.

(i) *ECO monitoring requirements.* The owner or operator using ECO shall comply with the monitoring requirements of this paragraph to demonstrate continuous compliance with this subpart. Paragraphs (i)(1) through (3) of this section address monitoring of the extended cookout.

(1) To comply with the provisions of this section, the owner or operator shall monitor one of the parameters listed in paragraphs (i)(1)(i) through (iii) of this section, or may utilize the provision in paragraph (i)(1)(iv) of this section.

(i) Time from the end of the epoxide feed;

(ii) The epoxide partial pressure in the closed reactor;

(iii) Direct measurement of epoxide concentration in the reactor liquid at the end of the ECO, when the reactor liquid is still in the reactor, or after the reactor liquid has been transferred to another vessel; or

(iv) An owner or operator may submit a request to the Administrator to monitor a parameter other than the parameters listed in paragraphs (i)(1)(i) through (iii) of this section, as described in § 63.1439(f).

(2) During the determination of the percent epoxide emission reduction in paragraphs (b) through (e) of this section, the owner or operator shall establish, as a level that shall be maintained during periods of operation, one of the parameters in paragraphs (i)(2)(i) through (iii) of this section, or may utilize the procedure in paragraph (i)(2)(iv) of this section, for each product class.

(i) The time from the end of the epoxide feed to the end of the ECO;

(ii) The reactor epoxide partial pressure at the end of the ECO;

(iii) The epoxide concentration in the reactor liquid at the end of the ECO, when the reactor liquid is still in the reactor, or after the reactor liquid has been transferred to another vessel; or

(iv) An owner or operator may submit a request to the Administrator to monitor a parameter other than the parameters listed in paragraphs (i)(2)(i) through (iii) of this section, as described in § 63.1439(f).

(3) For each batch cycle where ECO is used to reduce epoxide emissions, the owner or operator shall record the value of the monitored parameter at the end of the ECO. This parameter is then compared with the level established in accordance with paragraph (i)(2) of this section to determine if an excursion has occurred. An ECO excursion is defined as one of the situations described in paragraphs (i)(3)(i) through (v) of this section.

(i) When the time from the end of the epoxide feed to the end of the ECO is less than the time established in paragraph (i)(2)(i) of this section;

(ii) When the reactor epoxide partial pressure at the end of the ECO is greater than the partial pressure established in paragraph (i)(2)(ii) of this section;

(iii) When the epoxide concentration in the reactor liquid at the end of the ECO is greater than the epoxide concentration established in paragraph (i)(2)(iii) of this section;

(iv) When the parameter is not measured and recorded at the end of the ECO; or

(v) When the alternative monitoring parameter is outside the range established under § 63.1439(f) for proper operation of the ECO as a control technique.

(j) *Recordkeeping requirements.* (1) The owner or operator shall maintain the records specified in paragraphs (j)(1)(i) and (ii) of this section, for each product class. The owner or operator shall also maintain the records related to the initial determination of the percent epoxide emission reduction specified in paragraphs (j)(1)(iii) through (x) of this section, as applicable, for each product class.

(i) Operating conditions of the product class, including:

- (A) Pressure decay curve;
- (B) Minimum reaction temperature;
- (C) Number of reactive hydrogens in the raw material;
- (D) Minimum catalyst concentration;
- (E) Ratio of EO/PO at the end of the epoxide feed; and
- (F) Reaction conditions, including the size of the reactor or batch.

(ii) A listing of all products in the product class, along with the information specified in paragraphs (j)(1)(i)(A) through (F) of this section, for each product.

(iii) The concentration of epoxide at the end of the epoxide feed, determined in accordance with paragraph (b)(1) of this section.

(iv) The concentration of epoxide at the onset of the ECO, determined in

accordance with paragraph (c) of this section.

(v) The uncontrolled epoxide emissions at the onset of the ECO, determined in accordance with paragraph (c)(1) of this section. The records shall also include all the background data, measurements, and assumptions used to calculate the uncontrolled epoxide emissions.

(vi) The epoxide emissions at the end of the ECO, determined in accordance with paragraph (d)(1) of this section. The records shall also include all the background data, measurements, and assumptions used to calculate the epoxide emissions.

(vii) The percent epoxide reduction for the batch cycle, determined in accordance with paragraph (e)(1) of this section. The records shall also include all the background data, measurements, and assumptions used to calculate the percent reduction.

(viii) The parameter level, established in accordance with paragraph (i)(3) of this section.

(ix) If epoxide emissions occur before the end of the ECO, the owner or operator shall maintain records of the time and duration of all such emission episodes that occur during the initial demonstration of batch cycle efficiency.

(x) If the conditions in paragraphs (b)(2)(i), (ii), and (iii) of this section are met, the owner or operator is not required to maintain the records specified in paragraphs (j)(1)(iii) through (iv) of this section, but shall maintain the records specified in paragraphs (j)(1)(x)(A), (B), and (C) of this section.

(A) The reactor epoxide partial pressure at the following times:

(1) At end of the epoxide feed, determined in accordance with paragraph (b)(2) of this section;

(2) At the onset of the ECO, established in accordance with paragraph (c)(2) of this section; or

(3) At the end of the ECO, determined in accordance with paragraph (d)(2) of this section.

(B) The percent epoxide reduction for the batch cycle, determined in accordance with paragraph (e)(2) of this section. The records shall also include all the measurements and assumptions used to calculate the percent reduction.

(C) The reactor epoxide partial pressure at the end of the ECO.

(2) The owner or operator shall maintain the records specified in paragraphs (j)(2)(i) through (iv) of this section.

(i) For each batch cycle, the product being produced and the product class to which it belongs.

(ii) For each batch cycle, the owner or operator shall record the value of the parameter monitored in accordance with paragraph (i)(3) of this section.

(iii) If a combustion, recovery, or recapture device is used in conjunction with ECO, the owner or operator shall record the information specified in § 63.1430(d) and comply with the monitoring provisions in § 63.1429.

(iv) If a combustion, recovery, or recapture device is used to reduce emissions, the owner or operator shall maintain the records specified in § 63.1430(d).

(v) If epoxide emissions occur before the end of the ECO, the owner or operator shall maintain records of the time and duration of all such emission episodes.

(k) *Reporting requirements.* The owner or operator shall comply with the reporting requirements in this paragraph.

(1) The information specified in paragraphs (k)(1)(i) through (ii) of this section shall be provided in the Precompliance Report, as specified in § 63.1439(e)(4).

(i) A standard operating procedure for obtaining the reactor liquid sample and a method that will be used to determine the epoxide concentration in the liquid, in accordance with paragraph (f)(1)(i) of this section.

(ii) A request to monitor a parameter other than those specified in paragraph (i)(1)(i), (ii), or (iii) of this section, as provided for in paragraph (i)(1)(iv) of this section.

(2) The information specified in paragraphs (k)(2)(i) through (iv) of this section shall be provided in the Notification of Compliance Status, as specified in § 63.1439(e)(5).

(i) For each product class, the information specified in paragraphs (k)(2)(i)(A) through (C) of this section.

(A) The operating conditions of this product class, as specified in paragraph (j)(1)(i) of this section.

(B) A list of all products in the product class.

(C) The percent epoxide emission reduction, determined in accordance with paragraph (e) of this section.

(ii) The parameter for each product class, as determined in accordance with paragraph (i)(2) of this section.

(iii) If a combustion, recovery, or recapture device is used in addition to ECO to reduce emissions, the information specified in § 63.1430(g)(1).

(iv) If epoxide emissions occur before the end of the ECO, a listing of the time and duration of all such emission episodes that occur during the initial demonstration of batch cycle efficiency.

(3) The information specified in paragraphs (k)(3)(i) through (iii) of this

section shall be provided in the Periodic Report, as specified in § 63.1439(e)(6).

(i) Reports of each batch cycle for which an ECO excursion occurred, as defined in paragraph (i)(3) of this section.

(ii) Notification of each batch cycle when the time and duration of epoxide emissions before the end of the ECO, recorded in accordance with paragraph (j)(2)(iv) of this section, exceed the time and duration of the emission episodes during the initial epoxide emission percentage reduction determination, as recorded in paragraph (j)(1)(viii) of this section.

(iii) If a combustion, recovery, or recapture device is used to reduce emissions, the information specified in § 63.1430(h).

(l) *New polyether polyol products.* If an owner or operator wishes to utilize ECO as a control option for a polyether polyol not previously assigned to a product class and reported to the Agency in accordance with either paragraph (k)(2)(i)(B), (l)(1)(ii), or (l)(2)(iii) of this section, the owner or operator shall comply with the provisions of paragraph (l)(1) or (2) of this section.

(1) If the operating conditions of the new polyether polyol are consistent with the operating conditions for an existing product class, the owner or operator shall comply with the requirements in paragraphs (l)(1)(i) and (ii) of this section.

(i) The owner or operator shall update the list of products for the product class required by paragraph (j)(1)(ii) of this section, and shall record the information in paragraphs (j)(1)(i)(A) through (F) of this section for the new product.

(ii) Within 180 days after the production of the new polyether polyol, the owner or operator shall submit a report updating the product list previously submitted for the product class. This information may be submitted along with the next Periodic Report.

(2) If the operating conditions of the new polyether polyol do not conform with the operating characteristics of an existing product class, the owner or operator shall establish a new product class and shall comply with provisions of paragraphs (l)(2)(i) through (iii) of this section.

(i) The owner or operator shall establish the batch cycle percent epoxide emission reduction in accordance with paragraphs (b) through (g) of this section for the product class.

(ii) The owner or operator shall establish the records specified in

paragraph (j)(1) of this section for the product class.

(iii) Within 180 days of the production of the new polyether polyol, the owner or operator shall submit a report containing the information specified in paragraphs (k)(2)(i) and (ii) of this section.

(m) *Polyether polyol product changes.* If a change in operation, as defined in paragraph (m)(1) of this section, occurs for a polyether polyol that has been assigned to a product class and reported to the Agency in accordance with paragraph (k)(2)(i)(B), (l)(1)(ii), or (l)(2)(iii) of this section, the owner or operator shall comply with the provisions of paragraphs (m)(2) through (3) of this section.

(1) A change in operation for a polyether polyol is defined as a change in any one of the parameters listed in paragraphs (m)(1)(i) through (ix) of this section.

(i) A significant change in reaction kinetics;

(ii) Use of a different oxide reactant;

(iii) Use of a different EO/PO ratio;

(iv) A lower reaction temperature;

(v) A lower catalyst feed on a mole/mole fraction OH basis;

(vi) A shorter cookout;

(vii) A lower reactor pressure;

(viii) A different type of reaction, (e.g., a self-catalyzed vs. catalyzed reaction); or

(ix) A marked change in reaction conditions (e.g., a markedly different liquid level).

(2) If the operating conditions of the product after the change in operation remain within the operation conditions of the product class to which the product was assigned, the owner or operator shall update the records specified in paragraphs (j)(1)(i)(A) through (F) of this section for the product.

(3) If the operating conditions of the product after the change in operation are outside of the operating conditions of the product class to which the product was assigned, the owner or operator shall comply with the requirements in paragraph (m)(3)(i) or (ii) of this section, as appropriate.

(i) If the new operating conditions of the polyether polyol are consistent with the operating conditions for another existing product class, the owner or operator shall comply with the requirements in paragraphs (m)(3)(i)(A) and (B) of this section.

(A) The owner or operator shall update the list of products for the product class that the product is leaving, and for the product class that the product is entering, and shall record the new information in paragraphs

(j)(1)(i)(A) through (F) of this section for the product.

(B) Within 180 days after the change in operating conditions for the polyether polyol product, the owner or operator shall submit a report updating the product lists previously submitted for the product class. This information may be submitted along with the next Periodic Report.

(ii) If the new operating conditions of the polyether polyol product do not conform with the operating characteristics of an existing product class, the owner or operator shall establish a new product class and shall comply with provisions of paragraphs (m)(3)(i)(A) through (C) of this section.

(A) The owner or operator shall establish the batch cycle percent epoxide emission reduction in accordance with paragraphs (b) through (g) of this section for the product class.

(B) The owner or operator shall establish the records specified in paragraph (j)(1) of this section for the product class.

(C) Within 180 days of the change in operating conditions for the polyether polyol, the owner or operator shall submit a report containing the information specified in paragraphs (k)(2)(i) and (ii) of this section.

§ 63.1428 Process vent requirements for group determination of PMPUs using a nonepoxide organic HAP to make or modify the product.

(a) *Process vents from batch unit operations.* The owner or operator shall determine, for each PMPU located at an affected source, if the combination of all process vents from batch unit operations that are associated with the use of nonepoxide organic HAP to make or modify the product is a Group 1 combination of batch process vents, as defined in § 63.1423. The annual uncontrolled nonepoxide organic HAP emissions, determined in accordance with paragraph (b) of this section, and annual average flow rate, determined in accordance with paragraph (c) of this section, shall be determined for all process vents from batch unit operations associated with the use of a nonepoxide organic HAP to make or modify the product, with the exception of those vents specified in paragraph (i) of this section, at the location after all applicable control techniques have been applied to reduce epoxide emissions in accordance with paragraph (a)(1) or (2) of this section.

(1) If the owner or operator is using a combustion, recovery, or recapture device to reduce epoxide emissions, this location shall be at the exit of the

combustion, recovery, or recapture device.

(2) If the owner or operator is using ECO to reduce epoxide emissions, this location shall be at the exit from the batch unit operation. For the purpose of these determinations, the primary condenser operating as a reflux condenser on a reactor or distillation column shall be considered part of the unit operation.

(b) *Determination of annual nonepoxide organic HAP emissions.* The owner or operator shall determine, for each PMPU, the total annual nonepoxide organic HAP emissions from the combination of all process vents from batch unit operations that are associated with the use of a nonepoxide organic HAP to make or modify the product in accordance with paragraphs (b)(1) and (2) of this section.

(1) The annual nonepoxide organic HAP emissions for each process vent from a batch unit operation associated with the use of a nonepoxide organic HAP to make or modify the product shall be determined using the batch process vent procedures in the NESHAP for Group 1 Polymers and Resins (40 CFR part 63, subpart U), § 63.488(b).

(2) The owner or operator shall sum the annual nonepoxide organic HAP emissions from all individual process vents from batch unit operations in a PMPU, determined in accordance with paragraph (b)(1) of this section, to obtain the total nonepoxide organic HAP emissions from the combination of process vents associated with the use of a nonepoxide organic HAP to make or modify the product, for the PMPU.

(c) *Minimum emission level exemption.* If the annual emissions of TOC or nonepoxide organic HAP from the combination of process vents from batch unit operations that are associated with the use of nonepoxide organic HAP to make or modify a polyether polyol for a PMPU are less than 11,800 kg/yr, the owner or operator of that PMPU is not required to comply with the provisions in paragraphs (d) and (e) of this section.

(d) *Determination of average flow rate and annual average flow rate.* The owner or operator shall determine, for each PMPU, the total annual average flow rate for the combination of all process vents from batch unit operations that are associated with the use of a nonepoxide organic HAP to make or modify a product in accordance with paragraphs (d)(1) and (2) of this section.

(1) The annual average flow rate for each process vent from batch unit operations that is associated with the use of nonepoxide organic HAP to make or modify the product shall be determined using the batch process vent

procedures in the NESHAP for Group 1 Polymers and Resins (40 CFR part 63, subpart U), § 63.488(e).

(2) The owner or operator shall sum the annual average flow rates from the individual process vents from batch unit operations in a PMPU, determined in

accordance with paragraph (d)(1) of this section, to obtain the total annual average flow rate for the combination of process vents associated with the use of a nonepoxide organic HAP to make or modify the product, for the PMPU.

(e) *Determination of cutoff flow rate.* For each PMPU at an affected source that uses nonepoxide organic HAP to make or modify the product, the owner or operator shall calculate the cutoff flow rate using Equation 14.

$$\text{CFR} = (0.00437)(\text{AE}) - 51.6 \quad [\text{Equation 14}]$$

Where:

CFR = Cutoff flow rate, standard cubic meters per minute (scmm).

AE = Annual TOC or nonepoxide organic HAP emissions from the combination of process vents from batch unit operations that are associated with the use of nonepoxide organic HAP to make or modify the product, as determined in paragraph (b)(2) of this section, kg/yr.

(f) [Reserved]

(g) *Process changes affecting Group 2 combinations of process vents in a PMPU that are from batch unit operations.* Whenever process changes, as described in paragraph (g)(1) of this section, are made that affect a Group 2 combination of batch process vents and that could reasonably be expected to change the group status from Group 2 to Group 1, the owner or operator shall comply with paragraphs (g)(2) and (3) of this section.

(1) Examples of process changes include, but are not limited to, increases in production capacity or production rate, changes in feedstock type or catalyst type; or whenever there is replacement, removal, or modification of recovery equipment considered part of the batch unit operation. Any change that results in an increase in the annual nonepoxide organic HAP emissions from the estimate used in the previous group determination constitutes a process change for the purpose of these provisions. Process changes do not include: process upsets; unintentional, temporary process changes; and changes that are within the margin of variation on which the original group determination was based.

(2) For each process affected by a process change, the owner or operator shall redetermine the group status by repeating the procedures specified in paragraphs (b) through (e) of this section, as applicable, and determining if the combination of process vents is a Group 1 combination of batch process vents, as defined in § 63.1423. Alternatively, engineering assessment, as described in § 63.488(b)(6)(i), may be used to determine the effects of the process change.

(3) Based on the results of paragraph (g)(2) of this section, the owner or operator shall comply with either paragraph (g)(3)(i) or (ii) of this section.

(i) If the redetermination described in paragraph (g)(2) of this section indicates that the group status of the combination of process vents from batch unit operations in a PMPU that are associated with the use of nonepoxide organic HAP to make or modify the product changes from Group 2 to Group 1 as a result of the process change, the owner or operator shall submit a report as specified in § 63.1439(e)(6)(iii)(D)(1) and shall comply with Group 1 combination of batch process vents provisions in this subpart, as specified in § 63.1420(g)(3).

(ii) If the redetermination described in paragraph (g)(2) of this section indicates no change in group status, the owner or operator is not required to submit a report.

(h) *Process vents from continuous unit operations.* (1) The owner or operator shall determine the total resource effectiveness (TRE) index value for each process vent from a continuous unit operation that is associated with the use of nonepoxide organic HAP to make or modify the product. To determine the TRE index value, the owner or operator shall conduct a TRE determination and calculate the TRE index value according to the HON process vent group determination procedures in § 63.115(d)(1) or (2) and the TRE equation in § 63.115(d)(3). The TRE index value shall be determined at the location after all applicable control techniques have been applied to reduce epoxide emissions in accordance with paragraph (h)(1)(i), (ii), or (iii) of this section.

(i) If the owner or operator uses one or more nonepoxide recovery devices after all control techniques to reduce epoxide emissions, this location shall be after the last nonepoxide recovery device.

(ii) If the owner or operator does not use a nonepoxide recovery device after a combustion, recovery, or recapture device to reduce epoxide emissions, this location shall be at the exit of the

combustion, recovery, or recapture device.

(iii) If the owner or operator does not use a nonepoxide recovery device after extended cookout to reduce epoxide emissions, this location shall be at the exit from the continuous unit operation. For the purpose of these determinations, the primary condenser operating as a reflux condenser on a reactor or distillation column shall be considered part of the unit operation.

(2) The owner or operator of a Group 2 continuous process vent shall recalculate the TRE index value as necessary to determine whether the process vent is Group 1 or Group 2, whenever process changes are made that could reasonably be expected to change the process vent to Group 1. Examples of process changes include, but are not limited to, increases in production capacity or production rate, changes in feedstock type or catalyst type, or whenever there is replacement, removal, or addition of recovery equipment. For purposes of this paragraph, process changes do not include: process upsets; unintentional, temporary process changes; and changes that are within the range on which the original TRE calculation was based.

(i) The TRE index value shall be recalculated based on measurements of process vent stream flow rate, TOC, and nonepoxide organic HAP concentrations, and heating values as specified in the HON process vent group determination procedures in § 63.115(a), (b), (c), and (d), as applicable, or on best engineering assessment of the effects of the change. Engineering assessments shall meet the specifications in § 63.115(d)(1).

(ii) Where the recalculated TRE index value is less than or equal to 1.0, or, where the TRE index value before the process change was greater than 4.0 and the recalculated TRE index value is less than or equal to 4.0 but greater than 1.0, the owner or operator shall submit a report as specified in the process vent reporting and recordkeeping provisions in § 63.1430(j) or (k), and shall comply with the appropriate provisions in the process vent control requirements in § 63.1425 by the dates specified in

§ 63.1422 (the section describing compliance dates for sources subject to this subpart).

(iii) Where the recalculated TRE index value is greater than 4.0, the owner or operator is not required to submit a report.

(i) *Combination of process vents from batch unit operations and process vents from continuous unit operations.* If an owner or operator combines a process vent from a batch unit operation that is associated with the use of a nonepoxide organic HAP to make or modify the product with a process vent from a continuous unit operation that is associated with the use of a nonepoxide prior to the epoxide control technique, or prior to a nonepoxide recovery device that is after the epoxide control technique, then the provisions in paragraphs (i)(1) and (2) of this section shall apply.

(1) The process vent from the batch unit operation is not required to be included in the group determination required by paragraphs (a) through (e) of this section.

(2) The TRE index value of the combined stream shall be determined in accordance with paragraph (h) of this section, and the TRE index value shall be calculated during a period when nonepoxide organic HAP emissions are being generated by the batch unit operation.

§ 63.1429 Process vent monitoring requirements.

(a) *Monitoring equipment requirements.* The owner or operator of a process vent that uses a combustion, recovery, or recapture device to comply with the process vent control requirements in § 63.1425(b)(1), (b)(2), (c)(1), (c)(3), or (d) shall install monitoring equipment specified in paragraph (a)(1), (2), (3), (4), (5), (6), or (7) of this section, depending on the type of device used. Also, the owner or operator that uses a recovery or recapture device to comply with § 63.1425(c)(4) shall install monitoring equipment as specified in paragraph (a)(4), (5), (6), or (7) of this section. All monitoring equipment shall be installed, calibrated, maintained, and operated according to manufacturers' specifications or other written procedures that provide adequate assurance that the equipment would reasonably be expected to monitor accurately.

(1) Where an incinerator is used, a temperature monitoring device equipped with a continuous recorder is required.

(i) Where an incinerator other than a catalytic incinerator is used, a

temperature monitoring device shall be installed in the firebox or in the ductwork immediately downstream of the firebox in a position before any substantial heat exchange occurs.

(ii) Where a catalytic incinerator is used, temperature monitoring devices shall be installed in the gas stream immediately before and after the catalyst bed.

(2) Where a flare is used, the following monitoring equipment is required: a device (including but not limited to a thermocouple, ultra-violet beam sensor, or infrared sensor) capable of continuously detecting the presence of a pilot flame.

(3) Where a boiler or process heater of less than 44 megawatts design heat input capacity is used, the following monitoring equipment is required: a temperature monitoring device in the firebox equipped with a continuous recorder. Any boiler or process heater in which all process vent streams are introduced with primary fuel or are used as the primary fuel is exempt from this requirement.

(4) Where an absorber is used, a scrubbing liquid flow rate meter or a pressure monitoring device is required and should be equipped with a continuous recorder. If an acid or base absorbent is used, a pH monitoring device to monitor scrubber effluent is also required. If two or more absorbers in series are used, a scrubbing liquid flow rate meter, or a pressure monitoring device, equipped with a continuous recorder, is required for each absorber in the series. An owner or operator may submit a request to instead install the scrubbing liquid flow rate meter, or a pressure monitoring device, equipped with a continuous recorder, on only the final absorber in a series, in accordance with the alternative parameter monitoring reporting requirements in § 63.1439(f).

(5) Where a condenser is used, a condenser exit temperature (product side) monitoring device equipped with a continuous recorder is required.

(6) Where a carbon adsorber is used, an integrating regeneration stream flow monitoring device having an accuracy of +10 percent or better, capable of recording the total regeneration stream mass or volumetric flow for each regeneration cycle, and a carbon bed temperature monitoring device, capable of recording the carbon bed temperature after each regeneration and within 15 minutes of completing any cooling cycle are required.

(7) As an alternative to paragraphs (a)(4) through (6) of this section, the owner or operator may install an organic

monitoring device equipped with a continuous recorder.

(b) *Alternative parameters.* An owner or operator of a process vent may request approval to monitor parameters other than those listed in paragraph (a) of this section. The request shall be submitted according to the procedures specified in the process vent reporting and recordkeeping requirements in § 63.1430(j) and the alternative parameter monitoring reporting requirements in § 63.1439(f). Approval shall be requested if the owner or operator:

(1) Uses a combustion device other than an incinerator, boiler, process heater, or flare; or

(2) For a Group 2 continuous process vent, maintains a TRE greater than 1.0 but less than or equal to 4.0 without a recovery device or with a recovery device other than the recovery devices listed in paragraph (a) of this section; or

(3) Uses one of the combustion, recovery, or recapture devices listed in paragraph (a) of this section, but seeks to monitor a parameter other than those specified in paragraph (a) of this section.

(c) *Monitoring of bypass lines.* The owner or operator of a process vent using a process vent system that contains bypass lines that could divert a process vent stream away from the combustion, recovery, or recapture device used to comply with the process vent control requirements in § 63.1425(b), (c), or (d) shall comply with paragraph (c)(1) or (2) of this section. Equipment such as low leg drains, high point bleeds, analyzer vents, open-ended valves or lines, and pressure relief valves needed for safety purposes are not subject to paragraphs (c)(1) or (2) of this section.

(1) Properly install, maintain, and operate a flow indicator that takes a reading at least once at approximately equal intervals of about 15 minutes. Records shall be generated as specified in the process vent reporting and recordkeeping provisions in § 63.1430(d)(3). The flow indicator shall be installed at the entrance to any bypass line that could divert emissions away from the combustion, recovery, or recapture device and to the atmosphere; or

(2) Secure the bypass line valve in the non-diverting position with a car-seal or a lock-and-key type configuration. A visual inspection of the seal or closure mechanism shall be performed at least once every month to ensure that the valve is maintained in the non-diverting position and emissions are not diverted through the bypass line. Records shall be generated as specified in the process

vent reporting and recordkeeping provisions in § 63.1430(d)(4)(i).

(d) *Establishment of parameter monitoring levels.* Parameter monitoring levels for process vents from continuous or batch unit operations using a combustion, recovery, or recapture device to comply with the process vent control requirements in § 63.1425(b), (c), or (d) shall be established as specified in paragraphs (d)(1) through (3) of this section.

(1) For each parameter monitored under paragraph (a) or (b) of this section, the owner or operator shall establish a level, defined as either a maximum or minimum operating parameter as denoted in Table 5 of this subpart (the table listing the monitoring, recordkeeping, and reporting requirements for process vents from batch unit operations), that indicates that the combustion, recovery, or recapture device is operated in a manner to ensure compliance with the provisions of this subpart. The level shall be established in accordance with the procedures specified in the process vent control requirements in § 63.1430(d). The level may be based upon a prior performance test conducted for determining compliance with a regulation promulgated by the EPA, and the owner or operator is not required to conduct a performance test under the process vent requirements for determining organic HAP concentration, control efficiency, and aggregated organic HAP emission reductions in § 63.1426, provided that the prior performance test meets the conditions of § 63.1426(b)(3).

(2) The established level, along with supporting documentation, shall be submitted in the Notification of Compliance Status or the operating permit application as required in the Notification of Compliance Status requirements in § 63.1439(e)(5) or in the operating permit application requirements in § 63.1439(e)(8), respectively.

(3) The operating day shall be defined as part of establishing the parameter monitoring level and shall be submitted with the information in paragraph (d)(2) of this section. The definition of operating day shall specify the time(s) at which an operating day begins and ends.

§ 63.1430 Process vent reporting and recordkeeping requirements.

(a) [Reserved]

(b) *Records to demonstrate compliance.* The owner or operator complying with the process vent control requirements in § 63.1425(b), (c), or (d)

shall keep the following records, as applicable, readily accessible:

(1) When using a flare to comply with the process vent control requirements in § 63.1425(b)(2)(i), (c)(1)(i), (c)(3)(i), or (d)(1):

- (i) The flare design (i.e., steam-assisted, air-assisted, or non-assisted);
- (ii) All visible emission readings, heat content determinations, flow rate determinations, and exit velocity determinations made during the flare specification determination required by § 63.1437(c); and
- (iii) All periods during the flare specification determination required by § 63.1437(c) when all pilot flames are absent.

(2) The following information when using a combustion, recovery, or recapture device (other than a flare) to achieve compliance with the process vent control requirements in § 63.1425(b), (c), or (d):

(i) For a combustion, recovery, or recapture device being used to comply with a percent reduction requirement of § 63.1425(b)(1)(i), (b)(2)(ii), (c)(1)(ii), (c)(3)(ii), or (d)(2), or the annual epoxide emission limitation in § 63.1425(b)(1)(iii) or (b)(2)(iv), the percent reduction of organic HAP or TOC achieved, as determined using the procedures specified in the process vent requirements in § 63.1426;

(ii) For a combustion device being used to comply with an outlet concentration limitation of § 63.1425(b)(1)(ii) or (b)(2)(iii), the concentration of organic HAP or TOC outlet of the combustion device, as determined using the procedures specified in the process vent requirements in § 63.1426;

(iii) For a boiler or process heater, a description of the location at which the process vent stream is introduced into the boiler or process heater;

(iv) For a boiler or process heater with a design heat input capacity of less than 44 megawatts and where the process vent stream is introduced with combustion air or is used as a secondary fuel and is not mixed with the primary fuel, the percent reduction of organic HAP or TOC achieved, as determined using the procedures specified in § 63.1426.

(c) *Records related to the establishment of parameter monitoring levels.* For each parameter monitored according to the process vent monitoring requirements in § 63.1429(a) and Table 5 of this subpart, or for alternate parameters and/or parameters for alternate control techniques monitored according to the alternative parameter monitoring reporting requirements in § 63.1439(f) as allowed

under § 63.1429(b), maintain documentation showing the establishment of the level that indicates that the combustion, recovery, or recapture device is operated in a manner to ensure compliance with the provisions of this subpart, as required by the process vent monitoring requirements in § 63.1429(d).

(d) *Records to demonstrate continuous compliance.* The owner or operator that uses a combustion, recovery, or recapture device to comply with the process vent control requirements in § 63.1425(b), (c), or (d) shall keep the following records readily accessible:

(1) Continuous records of the equipment operating parameters specified to be monitored under the process vent monitoring requirements in § 63.1429(a) as applicable, and listed in Table 5 of this subpart, or specified by the Administrator in accordance with the alternative parameter monitoring reporting requirements in § 63.1439(f), as allowed under § 63.1429(b). These records shall be kept as specified under § 63.1439(d), except as specified in paragraphs (d)(1)(i) and (ii) of this section.

(i) For flares, the records specified in Table 5 of this subpart shall be maintained in place of continuous records.

(ii) For carbon adsorbers used for process vents from batch unit operations, the records specified in Table 5 of this subpart shall be maintained in place of daily averages.

(2) Records of the daily average value for process vents from continuous unit operations or batch unit operations of each continuously monitored parameter, except as provided in paragraphs (d)(2)(i) and (ii) of this section.

(i) Monitoring data recorded during periods of monitoring system breakdowns, repairs, calibration checks, and zero (low-level) and high-level adjustments shall not be included in computing the daily averages. In addition, monitoring data recorded during periods of non-operation of the process (or specific portion thereof) resulting in cessation of organic HAP emissions, (or periods of start-up, shutdown, or malfunction) shall not be included in computing the daily averages.

(ii) If all recorded values for a monitored parameter during an operating day are above the minimum or below the maximum parameter monitoring level established in accordance with the process vent monitoring requirements in § 63.1429(d), the owner or operator may record that all values were above the

minimum or below the maximum level established, rather than calculating and recording a daily average for that operating day.

(3) Hourly records of whether the flow indicator for bypass lines specified under § 63.1429(c)(1) was operating and whether a diversion was detected at any time during the hour. Also, records of the time(s) of all periods when the process vent was diverted from the combustion, recovery, or recapture device, or the flow indicator specified in § 63.1429(c)(1) was not operating.

(4) Where a seal or closure mechanism is used to comply with the process vent monitoring requirements for bypass lines in § 63.1429(c)(2), hourly records of flow are not required. For compliance with § 63.1429(c)(2), the owner or operator shall record whether the monthly visual inspection of the seals or closure mechanism has been done, and shall record the occurrence of all periods when the seal mechanism is broken, the bypass line valve position has changed, or the key for a lock-and-key type configuration has been checked out, and records of any car-seal that has been broken.

(5) Records specifying the times and duration of periods of monitoring system breakdowns, repairs, calibration checks, and zero (low-level) and high level adjustments. In addition, records specifying any other periods of process or combustion, recovery, or recapture device operation when monitors are not operating.

(e) *Records related to the group determination for process vents that are associated with the use of nonepoxide organic HAP to make or modify the product.* (1) *Process vents from batch unit operations.* Except as provided in paragraphs (e)(1)(vi) and (vii) of this section, the owner or operator of an affected source shall maintain the records specified in paragraphs (e)(1)(i) through (v) of this section for each PMPU that uses a nonepoxide organic HAP to make or modify the product in batch unit operations. The records required to be maintained by this paragraph are limited to the information developed and used to make the group determination under the process vent requirements for processes using a nonepoxide organic HAP to make or modify the product in § 63.1428(a) through (e), as appropriate. If an owner or operator did not need to develop certain information (e.g., annual average flow rate) to determine the group status, the owner or operator is not required to develop additional information. The owner or operator may elect Group 1 status for process vents without making a Group 1/Group 2 determination. In

such event, none of the records specified in paragraphs (e)(1)(i) through (v) are required.

(i) A description of, and an emission estimate for, each batch emission episode, and the total emissions associated with one batch cycle for each unique product class made in the PMPU.

(ii) Total annual uncontrolled TOC or nonepoxide organic HAP emissions from the combination of process vents from batch unit operations associated with the use of nonepoxide organic HAP to make or modify the product, as determined in accordance with the process vent requirements for group determinations in § 63.1428(b).

(iii) The annual average flow rate for the combination of process vents from batch unit operations associated with the use of organic HAP to make or modify the product, as determined in accordance with the process vent requirements for group determinations in § 63.1428(d).

(iv) The cutoff flow rate, determined in accordance with the process vent requirements for group determinations in § 63.1428(e).

(v) The results of the PMPU group determination (i.e., whether the combination of process vents is Group 1 or Group 2).

(vi) If the combination of all process vents from batch unit operations associated with the use of an organic HAP to make or modify the product is subject to the Group 1 batch process vent control requirements for nonepoxide HAP emissions from making or modifying the product in § 63.1425(c)(1), none of the records in paragraphs (b)(1)(i) through (v) of this section are required.

(vii) If the total annual emissions from the combination of process vents from batch unit operations associated with the use of an organic HAP to make or modify the product are less than 11,800 kg per year, only the records in paragraphs (b)(1)(i) and (ii) of this section are required.

(2) *Process vents from continuous unit operations.* The owner or operator of an affected source that uses nonepoxide organic HAP to make or modify the product in continuous unit operations shall keep records regarding the measurements and calculations performed to determine the TRE index value of each process vent stream. The owner or operator of Group 1 continuous process vents that are subject to the control requirements of § 63.1425(c)(3) is not required to keep these records.

(f) *Records for Group 2 process vents that are associated with the use of*

nonepoxide organic HAP to make or modify the product. The following records shall be maintained for PMPUs with a Group 2 combination of batch process vents and/or one or more Group 2 continuous process vents.

(1) *Process vents from batch unit operations—emission records.* The owner or operator shall maintain records of the combined total annual nonepoxide organic HAP emissions from process vents associated with the use of nonepoxide organic HAP to make or modify the product for each PMPU where the combination of these process vents is classified as Group 2.

(2) *Process vents from continuous unit operations—monitoring records for vents with TRE between 1.0 and 4.0.* The owner or operator using a recovery device or other means to achieve and maintain a TRE index value greater than 1.0 but less than 4.0 as specified in the HON process vent requirements in § 63.113(a)(3) or § 63.113(d) shall keep the following records readily accessible:

(i) Continuous records of the equipment operating parameters specified to be monitored under § 63.114(b) and listed in Table 5 of this subpart or specified by the Administrator in accordance with § 63.114(c) and § 63.117(e); and

(ii) Records of the daily average value of each continuously monitored parameter for each operating day determined according to the procedures specified in § 63.152(f). If carbon adsorber regeneration stream flow and carbon bed regeneration temperature are monitored, the records specified in Table 5 of this subpart shall be kept instead of the daily averages.

(3) *Process vents from continuous unit operations—records related to process changes.* The owner or operator subject to the provisions of this subpart who has elected to demonstrate compliance with the TRE index value greater than 4.0 under § 63.113(e) or greater than 1.0 under § 63.113(a)(3) or § 63.113(d) shall keep readily accessible records of:

(i) Any process changes as defined in § 63.115(e); and

(ii) Any recalculation of the TRE index value pursuant to § 63.115(e).

(4) *Process vents from continuous unit operations—records for vents with a flow rate less than 0.005 standard cubic meter per minute.* The owner or operator who elects to comply by maintaining a flow rate less than 0.005 standard cubic meter per minute under § 63.113(f) shall keep readily accessible records of:

(i) Any process changes as defined in § 63.115(e) that increase the process vent stream flow rate:

(ii) Any recalculation or measurement of the flow rate pursuant to § 63.115(e); and

(iii) If the flow rate increases to 0.005 standard cubic meter per minute or greater as a result of the process change, the TRE determination performed according to the procedures of § 63.115(d).

(5) *Process vents from continuous unit operations—records for vents with an organic HAP concentration less than 50 parts per million.* The owner or operator who elects to comply by maintaining an organic HAP concentration less than 50 parts per million by volume organic HAP concentration under § 63.113(g) shall keep readily accessible records of:

(i) Any process changes as defined in § 63.115(e) that increase the organic HAP concentration of the process vent stream;

(ii) Any recalculation or measurement of the concentration pursuant to § 63.115(e); and

(iii) If the organic HAP concentration increases to 50 parts per million by volume or greater as a result of the process change, the TRE determination performed according to the procedures of § 63.115(d).

(g) *Notification of Compliance Status.* The owner or operator of an affected source shall submit the information specified in paragraphs (g)(1) through (3) of this section, as appropriate, as part of the Notification of Compliance Status specified in § 63.1439(e)(5).

(1) For the owner or operator complying with the process vent control requirements in § 63.1425(b), (c)(1), (c)(3), or (d), the information specified in paragraph (b) of this section related to the compliance demonstration, and the information specified in paragraph (c) of this section related to the establishment of parameter monitoring levels.

(2) For each PMPU where the combination of process vents from batch unit operations that are associated with the use of nonexpoxide organic HAP to make or modify the product is Group 2, the information related to the group determination specified in paragraph (e)(1) of this section.

(3) For each process vent from a continuous unit operation that is associated with the use of nonexpoxide organic HAP to make or modify the product that is Group 2, the information related to the group determination specified in paragraph (e)(2) of this section.

(h) *Periodic Reports.* The owner or operator of an affected source shall submit Periodic Reports of the recorded information specified in paragraphs (h)(1) through (6) of this section, as

appropriate, according to the schedule for submitting Periodic Reports in § 63.1439(e)(6)(i).

(1) Reports of daily average values of monitored parameters for all operating days when the daily average values recorded under paragraph (d)(2) of this section were above the maximum, or below the minimum, level established in the Notification of Compliance Status or operating permit.

(2) Reports of the duration of periods when monitoring data are not collected for each excursion caused by insufficient monitoring data as defined in § 63.1438(f)(1)(iv), (f)(2)(i)(B), or (f)(3)(ii).

(3) Reports of the times and durations of all periods recorded under paragraph (d)(3) of this section when the process vent stream is diverted from the combustion, recovery, or recapture device through a bypass line.

(4) Reports of all periods recorded under paragraph (d)(4) of this section in which the seal mechanism is broken, the bypass line valve position has changed, or the key to unlock the bypass line valve was checked out.

(5) Reports of the times and durations of all periods recorded under paragraph (d)(1)(i) of this section in which all pilot flames of a flare were absent.

(6) Reports of all carbon bed regeneration cycles during which the parameters recorded under paragraph (d)(1)(ii) of this section were above the maximum, or below the minimum, levels established in the Notification of Compliance Status or operating permit.

(i) *Reports of process changes.* Whenever a process change, as defined in § 63.1420(g)(3), is made that causes a Group 2 combination of batch process vents at a PMPU that are associated with the use of nonexpoxide organic HAP to make or modify the product to become Group 1, the owner or operator shall submit a report within 180 days after the process change is made or the information regarding the process change is known to the owner or operator. This report may be included in the next Periodic Report or in a separate submittal to the Administrator, as specified in § 63.1439(e)(6)(iii)(D)(1). A description of the process change shall be submitted with the report.

(j) *Reporting requirements for Group 2 continuous process vents.* (1) Whenever a process change, as defined in § 63.1420(g)(3), is made that causes a Group 2 continuous process vent with a TRE greater than 4.0 to become a Group 2 continuous process vent with a TRE less than 4.0, the owner or operator shall submit a report within 180 calendar days after the process change is made or the information regarding the

process change is known, unless the flow rate is less than 0.005 standard cubic meters per minute. The report may be submitted as part of the next periodic report. The report shall include:

(i) A description of the process change;

(ii) The results of the recalculation of the TRE index value required under § 63.1428(h)(2), and recorded under paragraph (f)(3) of this section; and

(iii) A statement that the owner or operator will comply with the process vent monitoring requirements specified in § 63.1429, as appropriate.

(2) Whenever a process change, as defined in § 63.1420(g)(3), is made that causes a Group 2 continuous process vent with a flow rate less than 0.005 standard cubic meters per minute to become a Group 2 continuous process vent with a flow rate of 0.005 standard cubic meters per minute or greater, the owner or operator shall submit a report within 180 calendar days after the process change is made or the information regarding the process change is known, unless the organic HAP concentration is less than 50 ppmv. The report may be submitted as part of the next periodic report. The report shall include:

(i) A description of the process change;

(ii) The results of the calculation of the TRE index value required under § 63.1428(h)(2), and recorded under paragraph (f)(3) of this section; and

(iii) A statement that the owner or operator will comply with the process vent monitoring requirements specified in § 63.1429, as appropriate.

(3) Whenever a process change, as defined in § 63.1420(g)(3), is made that causes a Group 2 continuous process vent with an organic HAP concentration less than 50 ppmv to become a Group 2 continuous process vent with an organic HAP concentration of 50 ppmv or greater and a TRE index value less than 4.0, the owner or operator shall submit a report within 180 calendar days after the process change is made or the information regarding the process change is known, unless the flow rate is less than 0.005 standard cubic meters per minute. The report may be submitted as part of the next periodic report. The report shall include:

(i) A description of the process change;

(ii) The results of the calculation of the TRE index value required under § 63.1428(h)(2), and recorded under paragraph (f)(3) of this section; and

(iii) A statement that the owner or operator will comply with the process

vent monitoring requirements specified in § 63.1429, as appropriate.

(k) *Alternative requests.* If an owner or operator uses a combustion, recovery, or recapture device other than those specified in the process vent monitoring requirements in § 63.1429(a)(1) through (7) and listed in Table 5 of this subpart; requests approval to monitor a parameter other than those specified in § 63.1429(a)(1) through (7) and listed in Table 5 of this subpart; or uses ECO and requests to monitor a parameter other than those listed in § 63.1427(i)(1)(i) through (iii), as allowed under § 63.1427(i)(1)(iv), the owner or operator shall submit a description of planned reporting and recordkeeping procedures, as specified in § 63.1439(f)(3), as part of the Precompliance Report as required under § 63.1439(e)(4), or to the Administrator as a separate submittal. The Administrator will specify appropriate reporting and recordkeeping requirements as part of the review of the Precompliance Report.

§ 63.1431 Process vent annual epoxides emission factor plan requirements.

(a) *Applicability of emission factor plan requirements.* An owner or operator electing to comply with an annual epoxide emission factor limitation in § 63.1425(b)(1)(iii) or

(b)(2)(iv) shall develop and implement an epoxides emission factor plan in accordance with the provisions of this section.

(b) *Emission factor plan requirements.* The owner or operator shall develop an epoxides emission factor plan.

(1) If epoxide emissions are maintained below the epoxide emission factor limitation through the use of a combustion, recovery, or recapture device (without extended cookout), the owner or operator shall develop and implement the plan in accordance with paragraph (c) of this section.

(2) If epoxide emissions are maintained below the epoxide emission factor limitation through the use of extended cookout (without a combustion, recovery, or recapture device), the owner or operator shall develop and implement the plan in accordance with paragraph (d) of this section.

(3) If epoxide emissions are maintained below the epoxide emission factor limitation through the use of extended cookout in conjunction with a combustion, recovery, or recapture device, the owner or operator shall develop and implement the plan in accordance with paragraph (e) of this section.

(c) *Compliance with epoxide emission factor limitation using a combustion,*

recovery, or recapture device. (1) The owner or operator shall notify the Agency of the intent to use a combustion, recovery, or recapture device to comply with the epoxide emission factor limitation in § 63.1425(b)(1)(iii) or (b)(2)(iv). The owner or operator shall prepare an estimate of the annual epoxide emissions and the actual production rate in accordance with paragraphs (c)(1)(i) through (iv) of this section. This notification and emission estimate shall be submitted in the Precompliance Report as specified in § 63.1439(e)(4), or in the operating permit application, as allowed in § 63.1439(e)(8).

(i) *Annual uncontrolled epoxide emissions.* These emission estimates shall be determined in accordance with the batch process vent group determination procedures in the NESHA for Group I Polymers and Resins (40 CFR part 63, subpart U, § 63.488(b)) and shall be based on anticipated production.

(ii) A description of the combustion, recovery, or recapture device, along with the expected percent efficiency.

(iii) Annual emissions after the combustion, recovery, or recapture device. The expected annual emissions after control shall be determined using Equation 15.

$$AE_{\text{control}} = (AE_{\text{uncontrolled}}) \left[\left(1 - \frac{R}{100} \right) \right] \quad \text{[Equation 15]}$$

Where:

AE_{control} = Annual epoxide emissions after control, kg/yr.

$AE_{\text{uncontrolled}}$ = Annual uncontrolled epoxide emissions, determined in accordance with paragraph (c)(1)(i) of this section, kg/yr.

R = Expected control efficiency of the combustion, recovery, or recapture device, percent, as determined in § 63.1426(c).

(iv) The actual annual production rate means the annual mass of polyether polyol product produced from the applicable PMPU. This production rate shall be for the same annual time period as the annual emission estimate as calculated in accordance with paragraph (c)(1)(iii) of this section.

(2) The owner or operator shall conduct a performance test in accordance with § 63.1426(c) to determine the epoxide control efficiency of the combustion, recovery, or recapture device. The owner or operator shall then recalculate the annual epoxide emissions after control using

Equation 15, except that the control efficiency, R , shall be the measured control efficiency. This information shall be submitted as part of the Notification of Compliance Status, as provided in § 63.1439(e)(5).

(3) The owner or operator shall comply with the process vent monitoring provisions in § 63.1429.

(4) The owner or operator shall comply with the process vent recordkeeping requirements in paragraphs § 63.1430(b) through (d), and the process vent reporting requirements in § 63.1430(g)(1) and (h).

(d) *Compliance with epoxide emission factor limitation using extended cookout.* (1) The owner or operator shall notify the Agency of the intent to use extended cookout to comply with the epoxide emission factor limitation in § 63.1425(b)(1)(iii) or (b)(2)(iv). The owner or operator shall prepare an estimate of the annual epoxide emissions after the extended cookout. This notification and emission estimate shall be submitted in the Precompliance

Report as specified in § 63.1439(e)(4), or in the operating permit application, as allowed in § 63.1439(e)(8).

(2) The owner or operator shall determine the annual epoxide emissions in accordance with § 63.1427(d), based on anticipated production. This information shall be submitted as part of the Notification of Compliance Status, as provided in § 63.1439(e)(5).

(3) The owner or operator shall comply with the ECO monitoring provisions in § 63.1427(i).

(4) The owner or operator shall comply with the process vent recordkeeping and reporting requirements in § 63.1430.

(e) *Compliance with the epoxide emission factor limitation through the use of extended cookout in conjunction with one or more combustion, recovery, and/or recapture device.* (1) The owner or operator shall notify the Agency of the intent to use extended cookout in conjunction with one or more combustion, recovery, and/or recapture device to comply with the annual

epoxide emission factor limitation in § 63.1425(b)(1)(iii) or (b)(2)(iv). The owner or operator shall prepare an estimate of the annual epoxide emissions after control. This notification and emission estimate shall be submitted in the Precompliance Report as specified in § 63.1439(e)(4), or in the operating permit application, as allowed under § 63.1439(e)(8).

(2) The owner or operator shall determine the annual epoxide emissions after control. This information shall be submitted as part of the Notification of Compliance Status, as provided in § 63.1439(e)(5).

(3) The owner or operator shall comply with the ECO monitoring provisions in § 63.1427(i).

(4) The owner or operator shall comply with the ECO recordkeeping and reporting requirements in § 63.1427(j) and (k).

(f) *Compliance with epoxide emission factor limitation without using extended cookout or a combustion, recovery, or recapture device.* (1) The owner or operator shall notify the Agency of the intent to comply with the epoxide emission factor limitation in § 63.1425(b)(1)(iii) or (b)(2)(iv) without the use of ECO or a combustion, recovery, or recapture device. The owner or operator shall prepare an estimate of the annual epoxide emissions. This notification and emission estimate shall be submitted in the Precompliance Report as specified in § 63.1439(e)(4), or in the operating permit application, as allowed in § 63.1439(e)(8).

(2) Each year after the compliance date, the owner or operator shall calculate the epoxides emission factor for the previous year. This information shall be submitted in the second Periodic Report submitted each year, as specified in § 63.1439(e)(6).

§ 63.1432 Storage vessel provisions.

(a) For each storage vessel located at an affected source, the owner or operator shall comply with the HON storage vessel requirements of §§ 63.119 through 63.123 and the HON leak inspection provisions in § 63.148, with the differences noted in paragraphs (b) through (p) of this section, for the purposes of this subpart.

(b) When the term "storage vessel" is used in the HON storage vessel requirements in §§ 63.119 through 63.123, the definition of this term in § 63.1423 shall apply for the purposes of this subpart.

(c) When the term "Group 1 storage vessel" is used in the HON storage vessel requirements in §§ 63.119 through 63.123, the definition of this

term in § 63.1423 shall apply for the purposes of this subpart.

(d) When the term "Group 2 storage vessel" is used in the HON storage vessel requirements in §§ 63.119 through 63.123, the definition of this term in § 63.1423 shall apply for the purposes of this subpart.

(e) When the HON storage vessel requirements in § 63.119 refer to "December 31, 1992," the phrase "September 4, 1997" shall apply instead, for the purposes of this subpart.

(f) When the HON storage vessel requirements in § 63.119 refer to "April 22, 1994," the phrase "June 1, 1999," shall apply instead, for the purposes of this subpart.

(g) The owner or operator of an affected source shall comply with this paragraph instead of § 63.120(d)(1)(ii) for the purposes of this subpart. If the combustion, recovery, or recapture device used to comply with § 63.119(e) is also used to comply with any of the requirements found in §§ 63.1425 through 63.1431 and/or § 63.1433, the performance test required in or accepted by §§ 63.1425 through 63.1431 and/or § 63.1433 is acceptable for demonstrating compliance with the HON storage vessel requirements in § 63.119(e), for the purposes of this subpart. The owner or operator will not be required to prepare a design evaluation for the combustion, recovery, or recapture device as described in § 63.120(d)(1)(i), if the performance test meets the criteria specified in paragraphs (g)(1) and (2) of this section.

(1) The performance test demonstrates that the combustion, recovery, or recapture device achieves greater than or equal to the required control efficiency specified in the HON storage vessel requirements in § 63.119(e)(1) or (2), as applicable; and

(2) The performance test is submitted as part of the Notification of Compliance Status required by § 63.1439(e)(5).

(h) When the HON storage vessel requirements in § 63.120(d)(3)(i) uses the term "operating range," the term "level," shall apply instead, for the purposes of this subpart.

(i) For purposes of this subpart, the monitoring plan required by the HON storage vessel requirements in § 63.120(d)(2) shall specify for which combustion, recovery, or recapture device the owner or operator has selected to follow the procedures for continuous monitoring specified in § 63.1438. For the combustion, recovery, or recapture device(s) for which the owner or operator has selected not to follow the procedures for continuous monitoring specified in § 63.1438, the monitoring plan shall include a

description of the parameter(s) to be monitored to ensure that the combustion, recovery, or recapture device is being properly operated and maintained, an explanation of the criteria used for selection of that parameter(s), and the frequency with which monitoring will be performed (e.g., when the liquid level in the storage vessel is being raised), as specified in § 63.120(d)(2)(i).

(j) For purposes of this subpart, the monitoring plan required by § 63.122(b) shall be included in the Notification of Compliance Status required by § 63.1439(e)(5).

(k) When the HON Notification of Compliance Status requirements contained in § 63.152(b) are referred to in §§ 63.120, 63.122, and 63.123, the Notification of Compliance Status requirements contained in § 63.1439(e)(5) shall apply for the purposes of this subpart.

(l) When the HON Periodic Report requirements contained in § 63.152(c) are referred to in §§ 63.120, 63.122, and 63.123, the Periodic Report requirements contained in § 63.1439(e)(6) shall apply for the purposes of this subpart.

(m) When other reports as required in § 63.152(d) are referred to in § 63.122, the reporting requirements contained in § 63.1439(e)(7) shall apply for the purposes of this subpart.

(n) When the HON Initial Notification requirements contained in § 63.151(b) are referred to in § 63.119 through § 63.123, the owner or operator shall comply with the Initial Notification requirements contained in § 63.1439(e)(3), for the purposes of this subpart.

(o) When the determination of equivalence criteria in § 63.102(b) are referred to in the HON storage vessel requirements in § 63.121(a), the General Provisions' alternative nonopacity emission provisions in § 63.6(g) shall apply for the purposes of this subpart.

(p) The compliance date for storage vessels at affected sources subject to the provisions of this section is specified in § 63.1422.

(q) In addition to the records required by § 63.123, the owner or operator shall maintain records of all times when the storage tank is being filled (i.e., when the liquid level in the storage vessel is being raised). These records shall consist of documentation of the time when each filling period begins and ends.

§ 63.1433 Wastewater provisions.

(a) *Process wastewater.* Except as specified in paragraph (c) of this section, the owner or operator of each

affected source shall comply with the HON wastewater requirements in §§ 63.132 through 63.147 for each process wastewater stream originating at an affected source, with the HON leak inspection requirements in § 63.148, and with the HON requirements in § 63.149 for equipment that is subject to § 63.149, with the differences noted in paragraphs (a)(1) through (20) of this section. Further, the owner or operator of each affected source shall comply with the requirements of § 63.105(a) for maintenance wastewater, as specified in paragraph (b) of this section.

(1) Owners and operators of affected sources are not required to comply with the HON new source wastewater requirements in § 63.132(b)(1) and § 63.132(d), for the purposes of this subpart. Owners or operators of all new affected sources, as defined in this subpart, shall comply with the HON requirements for existing sources in §§ 63.132 through 63.149.

(2) When the HON requirements in §§ 63.132 through 63.149 refer to Table 9 or Table 36 of 40 CFR part 63, subpart G, the owner or operator is only required to consider organic HAP listed in Table 9 or Table 36 of 40 CFR part 63, subpart G, that are also listed on Table 4 of this subpart, for the purposes of this subpart. Owners and operators are exempt from all requirements in §§ 63.132 through 63.149 that pertain solely and exclusively to organic HAP listed on Table 8 of 40 CFR part 63, subpart G. In addition, when §§ 63.132 through 63.149 refer to List 1 or List 2, as listed in Table 36 of 40 CFR part 63, subpart G, the owner or operator is only required to consider organic HAP contained in those lists that are also listed on Table 4 of this subpart, for the purposes of this subpart.

(3) When the determination of equivalence criteria in § 63.102(b) is referred to in §§ 63.132, 63.133, and 63.137, the General Provisions' alternative nonopacity emission standard provisions in § 63.6(g) shall apply for the purposes of this subpart.

(4) When the HON storage vessel requirements contained in §§ 63.119 through 63.123 are referred to in §§ 63.132 through 63.148, the HON storage vessel requirements in §§ 63.119 through 63.123 are applicable, with the exception of the differences referred to in the storage vessel requirements in § 63.1432, for the purposes of this subpart.

(5) When the HON process wastewater reporting requirements in § 63.146(a) require the submission of a request for approval to monitor alternative parameters according to the procedures specified in § 63.151(g) or

§ 63.152(e), the owner or operator requesting to monitor alternative parameters shall follow the procedures specified in § 63.1439(f), for the purposes of this subpart.

(6) When the HON process wastewater recordkeeping requirements in § 63.147(d) require the owner or operator to keep records of the daily average value of each continuously monitored parameter for each operating day as specified in the HON recordkeeping provisions in § 63.152(f), the owner or operator shall instead keep records of the daily average value of each continuously monitored parameter as specified in § 63.1439(d), for the purposes of this subpart.

(7) When the HON requirements in §§ 63.132 through 63.149 refer to an "existing source," the term "existing affected source," as defined in § 63.1420(a)(3) shall apply, for the purposes of this subpart.

(8) When the HON requirements in §§ 63.132 through 63.149 refer to a "new source," the term "new affected source," as defined in § 63.1420(a)(4) shall apply, for the purposes of this subpart.

(9) When the HON process wastewater provisions in § 63.132 (a) and (b) refer to the "applicable dates specified in § 63.100 of subpart F of this part," the applicable compliance dates specified in § 63.1422 shall apply, for the purposes of this subpart.

(10) Whenever the HON process wastewater provisions in §§ 63.132 through 63.147 refer to a Group 1 wastewater stream or a Group 2 wastewater stream, the definitions of these terms contained in § 63.1423 shall apply, for the purposes of this subpart.

(11) When the HON control requirements for certain liquid streams in open systems, in § 63.149(d), refer to "§ 63.100(f) of subpart F," the phrase "§ 63.1420(c)," shall apply for the purposes of this subpart. In addition, where § 63.149(d) states "and the item of equipment is not otherwise exempt from controls by the provisions of subparts A, F, G, or H of this part," the phrase "and the item of equipment is not otherwise exempt from controls by the provisions of subparts A, F, G, H, or PPP of this part," shall apply for the purposes of this subpart.

(12) When the HON control requirements for certain liquid streams in open systems, in § 63.149(e) (1) and (2), refer to "a chemical manufacturing process unit subject to the new source requirements of 40 CFR 63.100(l) (1) or (2)," the phrase "a new affected source as described in § 63.1420(a)(4)," shall apply for the purposes of this subpart.

(13) When the HON Notification of Compliance Status requirements contained in § 63.152(b) are referred to in the HON process wastewater provisions in § 63.138 or § 63.146, the Notification of Compliance Status requirements contained in § 63.1439(e)(5) shall apply for the purposes of this subpart. In addition, when the HON process wastewater provisions in § 63.138 or § 63.146 require that information be reported according to § 63.152(b) in the HON Notification of Compliance Status, owners or operators of affected sources shall report the specified information in the Notification of Compliance Status required by § 63.1439(e)(5), for the purposes of this subpart.

(14) When the HON Periodic Report requirements contained in § 63.152(c) are referred to in the HON process wastewater provisions in § 63.146, the Periodic Report requirements contained in § 63.1439(e)(6) shall apply for the purposes of this subpart. In addition, when § 63.146 requires that information be reported in the HON Periodic Reports required in § 63.152(c), owners or operators of affected sources shall report the specified information in the Periodic Reports required in § 63.1439(e)(6), for the purposes of this subpart.

(15) When the term "range" is used in the HON requirements in §§ 63.132 through 63.149, the term "level" shall be used instead, for the purposes of this subpart. This level shall be determined using the procedures specified in parameter monitoring procedures in § 63.1438.

(16) When the HON process wastewater monitoring and inspection provisions in § 63.143(f) specify that the owner or operator shall establish the range that indicates proper operation of the treatment process or control technique, the owner or operator shall instead comply with the requirements § 63.1438 (c) or (d) for establishing parameter level maximums/minimums, for the purposes of this subpart.

(17) When the HON process wastewater provisions in § 63.146(b) (7) and (8) require that "the information on parameter ranges specified in § 63.152(b)(2)" be reported in the HON Notification of Compliance Status, owners and operators of affected sources are instead required to report the information on parameter levels in the Notification of Compliance Status as specified in § 63.1439(e)(5)(ii), for the purposes of this subpart.

(18) For the purposes of this subpart, the owner or operator is not required to comply with the HON process wastewater emission reduction provisions in § 63.138(g).

(19) When the provisions of HON process wastewater provisions in § 63.139(c)(1)(ii), § 63.145(d)(4), or § 63.145(i)(2) specify that Method 18, 40 CFR part 60, appendix A shall be used, Method 18 or Method 25A, 40 CFR part 60, appendix A may be used for the purposes of this subpart. The use of Method 25A, 40 CFR part 60, appendix A shall comply with paragraphs (a)(19)(i) and (ii) of this section.

(i) The organic HAP used as the calibration gas for Method 25A, 40 CFR part 60, appendix A shall be the single organic HAP representing the largest percent by volume of the emissions.

(ii) The use of Method 25A, 40 CFR part 60, appendix A is acceptable if the response from the high-level calibration gas is at least 20 times the standard deviation of the response from the zero calibration gas when the instrument is zeroed on the most sensitive scale.

(20) The owner or operator of a facility which receives a Group 1 wastewater stream, or a residual removed from a Group 1 wastewater stream, for treatment pursuant to the HON provisions in § 63.132(g) is subject to the requirements of § 63.132(g), with the differences identified in this section, and is not subject to the NESHAP from off-site waste and recovery operations in 40 CFR part 63, subpart DD, with respect to the received material.

(b) *Maintenance wastewater.* The owner or operator of each affected source shall comply with the HON maintenance wastewater requirements in § 63.105, with the exceptions noted in paragraphs (b) (1), (2), and (3) of this section.

(1) When the HON maintenance wastewater provisions in § 63.105(a) refer to "organic HAPs," the definition of "organic HAP" in § 63.1423 shall apply, for the purposes of this subpart.

(2) When the term "maintenance wastewater" is used in the HON maintenance wastewater provisions in § 63.105, the definition of "maintenance wastewater" in § 63.1423 shall apply, for the purposes of this subpart.

(3) When the term "wastewater" is used in the HON maintenance wastewater provisions in § 63.105, the definition of "wastewater" in § 63.1423 shall apply, for the purposes of this subpart.

(c) *Compliance date.* The compliance date for the affected source subject to the provisions of this section is specified in § 63.1422.

§ 63.1434 Equipment leak provisions.

(a) The owner or operator of each affected source shall comply with the HON equipment leak requirements in 40 CFR part 63, subpart H for all

equipment in organic HAP service, except as specified in paragraphs (b) through (g) of this section.

(b) The compliance date for the equipment leak provisions in this section is provided in § 63.1422(d).

(c) Affected sources subject to the HON equipment leak provisions in 40 CFR part 63, subpart I shall continue to comply with 40 CFR part 63, subpart I until the compliance date specified in § 63.1422. After the compliance date in § 63.1422, the source shall be subject to this subpart (40 CFR part 63, subpart PPP), and shall no longer be subject to 40 CFR part 63, subpart I. However, sources subject to 40 CFR part 63, subpart I that have elected to comply through a quality improvement program, as specified in the HON quality improvement plans for valves or pumps in § 63.175 or § 63.176 or both, may elect to continue these programs without interruption as a means of complying with this subpart. In other words, becoming subject to this subpart does not restart or reset the "compliance clock" as it relates to reduced burden earned through a quality improvement program.

(d) When the HON equipment leak Initial Notification requirements contained in § 63.182(a)(1) and § 63.182(b) are referred to in 40 CFR part 63, subpart H, the owner or operator shall comply with the Initial Notification requirements contained in § 63.1439(e)(3), for the purposes of this subpart. The Initial Notification shall be submitted no later than June 1, 2000 for existing sources, as stated in § 63.1439(e)(3)(ii)(A).

(e) The HON equipment leak Notification of Compliance Status required by § 63.182(a)(2) and § 63.182(c) shall be submitted within 150 days (rather than 90 days) of the applicable compliance date specified in § 63.1422 for the equipment leak provisions. The notification may be submitted as part of the Notification of Compliance Status required by § 63.1439(e)(5).

(f) The Periodic Reports required by § 63.182(a)(3) and § 63.182(d) may be submitted as part of the Periodic Reports required by § 63.1439(e)(6).

(g) If specific items of equipment, comprising part of a process unit subject to this subpart, are managed by different administrative organizations (e.g., different companies, affiliates, departments, divisions, etc.), those items of equipment may be aggregated with any PMPU within the affected source for all purposes under subpart H, providing there is no delay in achieving the applicable compliance date.

(h) The phrase "the provisions of subparts F, I, or PPP of this part" shall apply instead of the phrase "the provisions of subparts F or I of this part," and instead of the phrase "the provisions of subpart F or I of this part" throughout §§ 63.163 and 63.168, for the purposes of this subpart. In addition, the phrase "subparts F, I, and PPP" shall apply instead of the phrase "subparts F and I" in § 63.174(c)(2)(iii), for the purposes of this subpart.

§ 63.1435 Heat exchanger provisions.

(a) The owner or operator of each affected source shall comply with the requirements of § 63.104 for heat exchange systems, with the exceptions noted in paragraphs (b) through (e) of this section.

(b) When the term "chemical manufacturing process unit" is used in § 63.104, the term "polyether polyols manufacturing process unit" shall apply for the purposes of this subpart. Further, when the phrase "a chemical manufacturing process unit meeting the conditions of § 63.100(b)(1) through (3) of this subpart, except for chemical manufacturing process units meeting the condition specified in § 63.100(c) of this subpart" is used in § 63.104(a), the term "PMPU, except for PMPU meeting the conditions specified in § 63.1420(b)" shall apply for the purposes of this subpart.

(c) When the HON heat exchange system requirements in § 63.104(c)(3) and § 63.104(f)(1) specify that the monitoring plan and records required by § 63.104(f)(1)(i) through (iv) shall be kept as specified in the HON general compliance, reporting, and recordkeeping provisions in § 63.103(c), the provisions of the general recordkeeping and reporting requirements in § 63.1439(a) and the applicable provisions of the General Provisions in 40 CFR part 63, subpart A, as specified in Table 1 of this subpart, shall apply for the purposes of this subpart.

(d) When the HON heat exchange system requirements in § 63.104(f)(2) require information to be reported in the Periodic Reports required by the HON general reporting provisions in § 63.152(c), the owner or operator shall instead report the information specified in § 63.104(f)(2) in the Periodic Reports required by the general reporting requirements in § 63.1439(e)(6), for the purposes of this subpart.

(e) When the HON heat exchange system requirements in § 63.104 refer to Table 4 of 40 CFR part 63, subpart F or Table 9 of 40 CFR part 63, subpart G, the owner or operator is only required to consider organic HAP listed in Table 4

of 40 CFR part 63, subpart F or 40 CFR part 63, Table 9 of subpart G that are also listed on Table 4 of this subpart, for the purposes of this subpart.

§ 63.1436 [Reserved]

§ 63.1437 Additional requirements for performance testing.

(a) Performance testing shall be conducted in accordance with § 63.7(a)(1), (a)(3), (d), (e)(1), (e)(2), (e)(4), (g), and (h), with the exceptions specified in paragraphs (a)(1) through (4) of this section and the additions specified in paragraph (b) of this section.

(1) Performance tests shall be conducted according to the General Provisions' performance testing requirements in § 63.7(e)(1) and (2), except that for all emission sources except process vents from batch unit operations, performance tests shall be conducted during maximum representative operating conditions for the process achievable during one of the time periods described in paragraph (a)(1)(i) of this section, without causing any of the situations described in paragraph (a)(1)(ii) or (iii) of this section to occur. For process vents from batch unit operations, performance tests shall be conducted at absolute worst-case conditions, as defined in § 63.1426(c)(3)(i)(B), that are achievable during one of the time periods described in paragraph (a)(1)(i) of this section, without causing any of the situations described in paragraph (a)(1)(ii) or (iii) of this section to occur.

(i) The 6-month period that ends 2 months before the Notification of Compliance Status is due, according to § 63.1439(e)(5); or the 6-month period that begins 3 months before the performance test and ends 3 months after the performance test.

(ii) Causing damage to equipment; necessitating that the owner or operator make a product that does not meet an existing specification for sale to a customer; or necessitating that the owner or operator make a product in excess of demand.

(iii) Causing plant or testing personnel to be subject to unsafe conditions. Owners or operators that limit testing based on this paragraph shall maintain documentation that demonstrates the nature of the unsafe conditions and explains measures considered by the owner or operator to overcome these conditions. If requested, this documentation shall be provided to the Administrator.

(2) When the General Provisions' data analysis, recordkeeping, and reporting requirements in § 63.7(g) refer to the

Notification of Compliance Status requirements in § 63.9(h), the Notification of Compliance Status requirements in § 63.1439(e)(5) shall instead apply, for the purposes of this subpart.

(3) Because the General Provisions' site-specific test plan in § 63.7(c)(3) is not required, the General Provisions' requirement for the Administrator to approve or deny site-specific test plans, in § 63.7(h)(4)(ii), is not applicable for the purposes of this subpart.

(4) The owner or operator of an affected source shall provide the Administrator at least 30 days prior notice of any performance test, except as specified under other subparts, to afford the Administrator the opportunity to have an observer present. If after 30 days notice for an initially scheduled performance test, there is a delay (due to operational problems, etc.) in conducting the scheduled performance test, the owner or operator of an affected source shall notify the Administrator (or delegated State or local agency) as soon as possible of any delay in the original test date, either by providing at least 7 days prior notice of the rescheduled test date of the performance test, or by arranging a rescheduled date with the Administrator (or delegated State or local agency) by mutual agreement.

(b) Data shall be reduced in accordance with the EPA approved methods specified in the applicable subpart or, if other test methods are used, the data and methods shall be validated according to the protocol in Method 301, 40 CFR part 63, appendix A.

(c) Notwithstanding any other provision of this subpart, if an owner or operator of an affected source uses a flare to comply with any of the requirements of this subpart, the owner or operator shall comply with paragraphs (c)(1) through (3) of this section. The owner or operator is not required to conduct a performance test to determine percent emission reduction or outlet organic HAP or TOC concentration. If a compliance demonstration has been conducted previously for a flare, using the techniques specified in paragraphs (c)(1) through (3) of this section, that compliance demonstration may be used to satisfy the requirements of this paragraph if either no deliberate process changes have been made since the compliance demonstration, or the results of the compliance demonstration reliably demonstrate compliance despite process changes.

(1) Conduct a visible emission test using the techniques specified in § 63.11(b)(4) of the General Provisions;

(2) Determine the net heating value of the gas being combusted, using the techniques specified in § 63.11(b)(6) of the General Provisions; and

(3) Determine the exit velocity using the techniques specified in either § 63.11(b)(7)(i) (and § 63.11(b)(7)(iii), where applicable) or § 63.11(b)(8) of the General Provisions, as appropriate.

§ 63.1438 Parameter monitoring levels and excursions.

(a) *Establishment of parameter monitoring levels.* The owner or operator of a combustion, recovery, or recapture device that has one or more parameter monitoring level requirements specified under this subpart shall establish a maximum or minimum level for each measured parameter. If a performance test is required by this subpart for a combustion, recovery, or recapture device, the owner or operator shall use the procedures in either paragraph (b) or (c) of this section to establish the parameter monitoring level(s). If a performance test is not required by this subpart for a combustion, recovery, or recapture device, the owner or operator may use the procedures in paragraph (b), (c), or (d) of this section to establish the parameter monitoring levels. When using the procedures specified in paragraph (c) or (d) of this section, the owner or operator shall submit the information specified in § 63.1439(e)(4)(viii) for review and approval, as part of the Precompliance Report.

(1) The owner or operator shall operate combustion, recovery, and recapture devices such that the daily average value of monitored parameters remains at or above the minimum established level, or remains at or below the maximum established level, except as otherwise provided in this subpart.

(2) As specified in § 63.1439(e)(5)(ii), all established levels, along with their supporting documentation and the definition of an operating day, shall be submitted as part of the Notification of Compliance Status.

(3) Nothing in this section shall be construed to allow a monitoring parameter excursion caused by an activity that violates other applicable provisions of 40 CFR part 63, subparts A, F, G, or H.

(b) *Establishment of parameter monitoring levels based exclusively on performance tests.* In cases where a performance test is required by this subpart, or the owner or operator of the affected source elects to do a performance test in accordance with the provisions of this subpart, and an owner or operator elects to establish a

parameter monitoring level for a combustion, recovery, or recapture device based exclusively on parameter values measured during the performance test, the owner or operator of the affected source shall comply with the procedures in paragraph (b)(1) or (2) of this section, as applicable.

(1) *Process vents from continuous unit operations.* During initial compliance testing, the appropriate parameter shall be continuously monitored during the required 1-hour runs for process vents from continuous unit operations. The monitoring level(s) shall then be established as the average of the maximum (or minimum) point values from the three 1-hour test runs. The average of the maximum values shall be used when establishing a maximum level, and the average of the minimum values shall be used when establishing a minimum level.

(2) *Process vents from batch unit operations.* For process vents from batch unit operations, during initial compliance testing, the appropriate parameter shall be monitored continuously during the entire test period. The monitoring level(s) shall be those established during from the compliance test.

(c) *Establishment of parameter monitoring levels based on performance tests, supplemented by engineering assessments and/or manufacturer's recommendations.* Parameter monitoring levels established under this paragraph shall be based on the parameter values measured during the performance test supplemented by engineering assessments and/or manufacturer's recommendations. Performance testing is not required to be conducted over the entire range of expected parameter values. The information specified in paragraphs (c)(1) and (2) of this section shall be provided in the Notification of Compliance Status.

(1) The specific level of the monitored parameter(s) for each emission point.

(2) The rationale for the specific level for each parameter for each emission point, including any data and calculations used to develop the level and a description of why the level indicates proper operation of the combustion, recovery, or recapture device.

(d) *Establishment of parameter monitoring based on engineering assessments and/or manufacturer's recommendations.* If a performance test is not required by this subpart for a combustion, recovery, or recapture device, the maximum or minimum level may be based solely on engineering assessments and/or manufacturers'

recommendations. As required in paragraph (a)(2) of this section, the determined level and all supporting documentation shall be provided in the Notification of Compliance Status.

(e) *Monitoring violations.* (1) With the exception of excursions excused in accordance with paragraph (g) of this section, each excursion, as defined in paragraphs (f)(1)(i), (f)(2)(i)(A), (f)(2)(ii), (f)(3)(i), and (f)(4) of this section, constitutes a violation of the provisions of this subpart in accordance with paragraph (e)(1)(i), (ii), or (iii) of this section.

(i) For each condenser, each excursion constitutes a violation of the emission limit.

(ii) For each recovery or recapture device other than a condenser, where an organic monitoring device is used to monitor concentration, each excursion constitutes a violation of the emission limit.

(iii) For each combustion, recovery, or recapture device other than a condenser, each excursion constitutes a violation of the operating limit.

(2) With the exception of excursions excused in accordance with paragraph (g) of this section, each excursion, as defined in paragraphs (f)(1)(ii), (f)(1)(iii), (f)(2)(i)(B), and (f)(3)(ii) of this section constitutes a violation of the operating limit.

(f) *Parameter monitoring excursion definitions.* Parameter monitoring excursions are defined in paragraphs (f)(1) through (3) of this section.

(1) With respect to storage vessels (where the applicable monitoring plan specifies continuous monitoring), process vents from continuous unit operations using combustion, recovery, or recapture devices for purposes of compliance, and for process wastewater streams, an excursion means any of the three cases listed in paragraphs (f)(1)(i) through (iii) of this section.

(i) The daily average value of one or more monitored parameters is above the maximum level or below the minimum level established for the given parameters.

(ii) The period of combustion, recovery, or recapture device operation, with the exception noted in paragraph (f)(1)(v) of this section, is 4 hours or greater in an operating day and monitoring data are insufficient, as defined in paragraph (f)(1)(iv) of this section, to constitute a valid hour of data for at least 75 percent of the operating hours.

(iii) The period of combustion, recovery, or recapture device operation, with the exception noted in paragraph (f)(1)(v) of this section, is less than 4 hours in an operating day and more

than 2 of the hours during the period of operation do not constitute a valid hour of data due to insufficient monitoring data, as defined in paragraph (f)(1)(iv) of this section.

(iv) Monitoring data are insufficient to constitute a valid hour of data, as used in paragraphs (f)(1)(ii) and (iii) of this section, if measured values are unavailable due to monitoring system breakdowns, repairs, calibrated checks, or zero (low-level) and high level adjustments, for any of the 15-minute periods within the hour. For data compression systems approved under § 63.1439(g)(3), monitoring data are insufficient to calculate a valid hour of data if there are less than four data measurements made during the hour.

(v) The periods listed in paragraphs (f)(1)(v)(A) through (D) of this section are not considered to be part of the period of combustion, recovery, or recapture device operation, for the purposes of paragraphs (f)(1)(ii) and (iii) of this section.

(A) Start-ups;

(B) Shutdowns;

(C) Malfunctions; or

(D) Periods of non-operation of the affected source (or portion thereof), resulting in cessation of the emissions to which the monitoring applies.

(2) For storage vessels where the applicable monitoring plan does not specify continuous monitoring, an excursion is defined in paragraph (f)(2)(i) or (ii) of this section, as applicable.

(i) If the monitoring plan specifies monitoring a parameter and recording its value at specific intervals (such as every 15 minutes or every hour), either of the cases listed in paragraph (f)(2)(i)(A) or (B) of this section is considered a single excursion for the combustion device.

(A) When the average value of one or more parameters, averaged over the time during which the storage vessel is being filled (i.e., when the liquid level in the storage vessel is being raised), is above the maximum level or below the minimum level established for the given parameters.

(B) When monitoring data are insufficient. Monitoring data shall be considered insufficient when measured values are not available, due to monitoring system breakdowns, repairs, calibration checks, or zero (low-level) and high-level adjustments, for at least 75 percent of the specific intervals at which parameters are to be monitored and recorded, according to the storage vessel's monitoring plan, during which the storage vessel is being filled.

(ii) If the monitoring plan does not specify monitoring a parameter and

recording its value at specific intervals (for example, if the relevant operating requirement is to exchange a disposable carbon canister before expiration of its rated service life), the monitoring plan shall define an excursion in terms of the relevant operating requirement.

(3) With respect to process vents from batch unit operations, an excursion means one of the two cases listed in paragraphs (f)(3)(i) and (ii) of this section.

(i) When the daily average value of one or more monitored parameters is above the maximum or below the minimum established level for the given parameters.

(ii) When monitoring data are insufficient for an operating day. Monitoring data shall be considered insufficient when measured values are not available, due to monitoring system breakdowns, repairs, calibration checks, or zero (low-level) and high-level adjustments, for at least 75 percent of the 15-minute periods when batch emission episodes selected to be controlled are being vented to the control device during the operating day, using the procedures specified in paragraphs (f)(3)(ii)(A) through (D) of this section.

(A) Determine the total amount of time during the operating day when batch emission episodes selected to be controlled are being vented to the control device.

(B) Subtract the time during the periods listed in paragraphs (f)(3)(ii)(B)(1) through (4) of this section from the total amount of time determined above in paragraph (f)(3)(ii)(A) of this section, to obtain the operating time used to determine if monitoring data are insufficient.

(1) Start-ups;

(2) Shutdowns;

(3) Malfunctions; or

(4) Periods of non-operation of the affected source (or portion thereof), resulting in cessation of the emissions to which the monitoring applies.

(C) Determine the total number of 15-minute periods in the operating time used to determine if monitoring data are insufficient, as was determined in accordance with paragraph (f)(3)(ii)(B) of this section.

(D) If measured values are not available for at least 75 percent of the total number of 15-minute periods determined in paragraph (f)(3)(ii)(C) of this section, the monitoring data are insufficient for the operating day.

(4) With respect to process vents using ECO to reduce epoxide emissions, an excursion means any of the situations described in § 63.1427(i)(3)(i) through (v). For each excursion, the

owner or operator shall be deemed out of compliance with the provisions of this subpart, in accordance with paragraph (e) of this section, except as provided in paragraph (g) of this section.

(g) *Excused excursions.* A number of excused excursions shall be allowed for each combustion, recovery, or recapture device for each semiannual period. The number of excused excursions for each semiannual period is specified in paragraphs (g)(1) through (6) of this section. This paragraph applies to affected sources required to submit Periodic Reports semiannually or quarterly. The first semiannual period is the 6-month period starting the date the Notification of Compliance Status is due.

(1) For the first semiannual period—six excused excursions.

(2) For the second semiannual period—five excused excursions.

(3) For the third semiannual period—four excused excursions.

(4) For the fourth semiannual period—three excused excursions.

(5) For the fifth semiannual period—two excused excursions.

(6) For the sixth and all subsequent semiannual periods—one excused excursion.

§ 63.1439 General recordkeeping and reporting provisions.

(a) *Data retention.* Unless otherwise specified in this subpart, the owner or operator of an affected source shall keep copies of all applicable records and reports required by this subpart for at least 5 years. All applicable records shall be maintained in such a manner that they can be readily accessed. The most recent 6 months of records shall be retained on site or shall be accessible from a central location by computer or other means that provide access within 2 hours after a request. The remaining 4 and one-half years of records may be retained offsite. Records may be maintained in hard copy or computer-readable form including, but not limited to, on microfilm, computer, floppy disk, magnetic tape, or microfiche. If an owner or operator submits copies of reports to the applicable EPA Regional Office, the owner or operator is not required to maintain copies of reports. If the EPA Regional Office has waived the requirement of § 63.10(a)(4)(ii) for submittal of copies of reports, the owner or operator is not required to maintain copies of reports.

(b) *Subpart A requirements.* The owner or operator of an affected source shall comply with the applicable recordkeeping and reporting requirements in 40 CFR part 63, subpart

A (the General Provisions) as specified in Table 1 of this subpart. These requirements include, but are not limited to, the requirements specified in paragraphs (b)(1) and (2) of this section.

(1) *Start-up, shutdown, and malfunction plan.* The owner or operator of an affected source shall develop and implement a written start-up, shutdown, and malfunction plan as specified in the General Provisions' requirements for a Startup, Shutdown, and Malfunction Plan in § 63.6(e)(3). This plan shall describe, in detail, procedures for operating and maintaining the affected source during periods of start-up, shutdown, and malfunction and a program for corrective action for malfunctioning process and air pollution control equipment used to comply with this subpart. A provision for ceasing to collect, during a start-up, shutdown, or malfunction, monitoring data that would otherwise be required by the provisions of this subpart may be included in the start-up, shutdown, and malfunction plan only if the owner or operator has demonstrated to the Administrator, through the Precompliance Report or a supplement to the Precompliance Report, that the monitoring system would be damaged or destroyed if it were not shut down during the start-up, shutdown, or malfunction. The owner or operator of the affected source shall keep the start-up, shutdown, and malfunction plan on site. In addition, if the start-up, shutdown, and malfunction plan is revised, the owner or operator shall keep previous (i.e., superseded) versions of the start-up, shutdown, and malfunction plan for a period of 5 years after each revision to the plan. If the new version of the start-up, shutdown, and malfunction plan includes a provision for ceasing to collect, during a start-up, shutdown, or malfunction, monitoring data that would otherwise be required, the owner or operator shall submit a supplement to the Precompliance Report to the Administrator for the Administrator's approval, documenting that the monitoring system would be damaged or destroyed if it were not shut down during the start-up, shutdown, or malfunction. Records associated with the plan shall be kept as specified in paragraphs (b)(1)(i)(A) and (B) of this section. Reports related to the plan shall be submitted as specified in paragraph (b)(1)(ii) of this section.

(i) The owner or operator shall keep the records specified in paragraphs (b)(1)(i)(A) and (B) of this section.

(A) Records of the occurrence and duration of each start-up, shutdown,

and malfunction of operation of process equipment or combustion, recovery, or recapture devices or continuous monitoring systems used to comply with this subpart during which excess emissions (as defined in § 63.1420(h)(4)) occur.

(B) For each start-up, shutdown, or malfunction during which excess emissions (as defined in § 63.1420(h)(4)) occur, records reflecting whether the procedures specified in the affected source's start-up, shutdown, and malfunction plan were followed, and documentation of actions taken that are not consistent with the plan. For example, if a start-up, shutdown, and malfunction plan includes procedures for routing a combustion, recovery, or recapture device to a backup combustion, recovery, or recapture device, records shall be kept of whether the plan was followed. These records may take the form of a "checklist," or other form of recordkeeping that confirms conformance with the start-up, shutdown, and malfunction plan for the event.

(ii) For the purposes of this subpart, the semiannual start-up, shutdown, and malfunction reports shall be submitted on the same schedule as the Periodic Reports required under paragraph (e)(6) of this section instead of according to the General Provisions' Periodic Reporting schedule specified in § 63.10(d)(5)(i). The reports shall include the information specified in paragraphs (b)(1)(i)(A) and (B) of this section and shall contain the name, title, and signature of the owner or operator or other responsible official who is certifying its accuracy.

(2) *Application for approval of construction or reconstruction.* For new affected sources, the owner or operator shall comply with the General Provisions' requirements for the application for approval of construction or reconstruction, as specified in § 63.5, excluding the provisions specified in § 63.5(d)(1)(ii)(H), (d)(1)(iii), (d)(2), and (d)(3)(ii).

(c) *Subpart H requirements.* The owner or operator of an affected source shall comply with the HON equipment leak reporting and recordkeeping requirements in 40 CFR part 63, subpart H, except as specified in § 63.1434(b) through (g).

(d) *Recordkeeping and documentation.* The owner or operator required to keep continuous records shall keep records as specified in paragraphs (d)(1) through (7) of this section, unless an alternative recordkeeping system has been requested and approved as specified in paragraph (g) of this section, and except

as provided in paragraph (h) of this section. If a monitoring plan for storage vessels pursuant to § 63.1432(i) requires continuous records, the monitoring plan shall specify which provisions, if any, of paragraphs (d)(1) through (7) of this section apply. As described in § 63.1432(i), certain storage vessels are not required to keep continuous records as specified in this paragraph. The owner or operator of such storage vessels shall keep records as specified in the monitoring plan required by § 63.1432(i).

(1) The monitoring system shall measure data values at least once during approximately equal 15-minute intervals.

(2) The owner or operator shall record either each measured data value or block average values for 1 hour or shorter periods calculated from all measured data values during each period. If values are measured more frequently than once per minute, a single value for each minute may be used to calculate the hourly (or shorter period) block average instead of all measured values. The owner or operator of process vents from batch unit operations shall record each measured data value.

(3) Daily average values of each continuously monitored parameter shall be calculated for each operating day as specified in paragraphs (d)(3)(i) through (ii) of this section, except as specified in paragraphs (d)(6) and (7) of this section.

(i) The daily average value shall be calculated as the average of all parameter values recorded during the operating day, except as specified in paragraph (d)(7) of this section. The calculated average shall cover a 24-hour period if operation is continuous. If intermittent emissions episodes occur resulting in emissions being vented to a combustion, recapture, or recovery device for a period of less than 24 hours in the operating day, the daily average shall be calculated based only on the period when emissions are being vented to the combustion, recapture, or recovery device. For example, if a batch unit operation operates such that emissions are vented to a combustion device for 6 hours, then the daily average is the average of the temperature measurements taken during those 6 hours.

(ii) The operating day shall be the 24-hour period that the owner or operator specifies in the operating permit or the Notification of Compliance Status, for purposes of determining daily average values.

(4) [Reserved]

(5) [Reserved]

(6) If all recorded values for a monitored parameter during an operating day are above the minimum level or below the maximum level established in the Notification of Compliance Status or operating permit, the owner or operator may record that all values were above the minimum level or below the maximum level rather than calculating and recording a daily average for that operating day.

(7) Monitoring device operation during periods identified in paragraphs (d)(7)(i) through (v) of this section shall not be included in any average computed under this subpart. Records shall be kept of the times and durations of all such periods and any other periods during process or combustion, recovery, or recapture device operation when monitors are not operating.

(i) Monitoring system breakdowns, repairs, calibration checks, and zero (low-level) and high-level adjustments;

(ii) Start-ups;

(iii) Shutdowns;

(iv) Malfunctions; or

(v) Periods of non-operation of the affected source (or portion thereof), resulting in cessation of the emissions to which the monitoring applies.

(8) For continuous monitoring systems used to comply with this subpart, records documenting the completion of calibration checks, and records documenting the maintenance of continuous monitoring systems that are specified in the manufacturer's instructions or that are specified in other written procedures that provide adequate assurance that the equipment would reasonably be expected to monitor accurately.

(9) The owner or operator of an affected source granted a waiver of recordkeeping or reporting requirements under the General Provisions' recordkeeping and reporting requirements in § 63.10(f) shall maintain the information, if any, specified by the Administrator as a condition of the waiver of recordkeeping or reporting requirements.

(e) *Reporting and notification.* In addition to the reports and notifications required by 40 CFR part 63, subpart A, as specified in this subpart, the owner or operator of an affected source shall prepare and submit the reports listed in paragraphs (e)(3) through (8) of this section, as applicable. All reports required by this subpart, and the schedule for their submittal, are listed in Table 8 of this subpart.

(1) *Violation of reporting requirements.* Owners and operators shall not be in violation of the reporting requirements of this paragraph (e) for failing to submit information required to

be included in a specified report if the owner or operator meets the requirements in paragraphs (e)(1)(i) through (iii) of this section. Examples of circumstances where this paragraph may apply include information related to newly-added equipment or emission points, changes in the process, changes in equipment required or utilized for compliance with the requirements of this subpart, or changes in methods or equipment for monitoring, recordkeeping, or reporting.

(i) The information was not known in time for inclusion in the report specified by this subpart.

(ii) The owner or operator has been diligent in obtaining the information.

(iii) The owner or operator submits a report according to the provisions of paragraphs (e)(1)(iii)(A) through (C) of this section.

(A) If this subpart expressly provides for supplements to the report in which the information is required, the owner or operator shall submit the information as a supplement to that report. The information shall be submitted no later than 60 days after it is obtained, unless otherwise specified in this subpart.

(B) If this subpart does not expressly provide for supplements, but the owner or operator must submit a request for revision of an operating permit pursuant to the State operating permit programs in part 70 or the Federal operating permit programs in part 71, due to circumstances to which the information pertains, the owner or operator shall submit the information with the request for revision to the operating permit.

(C) In any case not addressed by paragraph (e)(1)(iii)(A) or (B) of this section, the owner or operator shall submit the information with the first Periodic Report, as required by this subpart, which has a submission deadline at least 60 days after the information is obtained.

(2) *Submission of reports.* All reports required under this subpart shall be sent to the Administrator at the applicable address listed in the General Provisions' list of addresses of State air pollution control agencies and EPA Regional Offices, in § 63.13. If acceptable to both the Administrator and the owner or operator of a source, reports may be submitted on electronic media.

(3) *Initial Notification.* The owner or operator of an existing or new affected source shall submit a written Initial Notification to the Administrator, containing the information described in paragraph (e)(3)(i) of this section, according to the schedule in paragraph (e)(3)(ii) of this section. The General Provisions' Initial Notification requirements in § 63.9(b)(2), (3), and (6)

shall not apply, for the purposes of this subpart.

(i) The Initial Notification shall include the following information:

(A) The name and address of the owner or operator;

(B) The address (physical location) of the affected source;

(C) An identification of the kinds of emission points within the affected source;

(D) An identification of the relevant standard, or other requirement, that is the basis of the notification and the source's compliance date; and

(E) A statement of whether or not the affected source is a major source.

(ii) The Initial Notification shall be submitted according to the schedule in paragraph (e)(3)(ii)(A), (B), or (C) of this section, as applicable.

(A) For an existing source, the Initial Notification shall be submitted no later than June 1, 2000.

(B) For a new source that has an initial start-up on or after August 30, 1999, the application for approval of construction or reconstruction required by the General Provisions in § 63.5(d) shall be submitted in lieu of the Initial Notification. The application shall be submitted as soon as practical before construction or reconstruction is planned to commence (but it need not be sooner than August 30, 1999).

(C) For a new source that has an initial start-up prior to August 30, 1999, the Initial Notification shall be submitted no later than August 30, 1999. The application for approval of construction or reconstruction described in the General Provisions' requirements in § 63.5(d) is not required for these sources.

(4) *Precompliance Report.* The owner or operator of an affected source requesting an extension for compliance; requesting approval to use alternative monitoring parameters, alternative continuous monitoring and recordkeeping, or alternative controls; requesting approval to incorporate a provision for ceasing to collect monitoring data, during a start-up, shutdown, or malfunction, into the start-up, shutdown, and malfunction plan, when that monitoring equipment would be damaged if it did not cease to collect monitoring data, as permitted under § 63.1420(h)(3); or requesting approval to establish parameter monitoring levels according to the procedures contained in § 63.1438(c) or (d) shall submit a Precompliance Report according to the schedule described in paragraph (e)(4)(i) of this section. The Precompliance Report shall contain the information specified in paragraphs

(e)(4)(ii) through (viii) of this section, as appropriate.

(i) The Precompliance Report shall be submitted to the Administrator no later than 12 months prior to the compliance date. Unless the Administrator objects to a request submitted in the Precompliance Report within 45 days after its receipt, the request shall be deemed approved. For new affected sources, the Precompliance Report shall be submitted to the Administrator with the application for approval of construction or reconstruction required in paragraph (b)(2) of this section. Supplements to the Precompliance Report may be submitted as specified in paragraph (e)(4)(vii) of this section.

(ii) A request for an extension for compliance, as specified in § 63.1422(e), may be submitted in the Precompliance Report. The request for a compliance extension shall include the data outlined in the General Provisions' compliance requirements in § 63.6(i)(6)(i)(A), (B), and (D), as required in § 63.1422(e)(1).

(iii) The alternative monitoring parameter information required in paragraph (f) of this section shall be submitted in the Precompliance Report if, for any emission point, the owner or operator of an affected source seeks to comply through the use of a control technique other than those for which monitoring parameters are specified in this subpart or in 40 CFR part 63, subpart G, or seeks to comply by monitoring a different parameter than those specified in this subpart or in 40 CFR part 63, subpart G.

(iv) If the affected source seeks to comply using alternative continuous monitoring and recordkeeping as specified in paragraph (g) of this section, the owner or operator shall submit a request for approval in the Precompliance Report.

(v) The owner or operator shall report the intent to use alternative controls to comply with the provisions of this subpart in the Precompliance Report. The Administrator may deem alternative controls to be equivalent to the controls required by the standard, under the procedures outlined in the General Provisions' requirements for use of an alternative nonopacity emission standard, in § 63.6(g).

(vi) If the owner or operator is requesting approval to incorporate a provision for ceasing to collect monitoring data, during a start-up, shutdown, or malfunction, into the start-up, shutdown, and malfunction plan, when that monitoring equipment would be damaged if it did not cease to collect monitoring data, the information specified in paragraphs (e)(4)(vi)(A) and

(B) of this section shall be supplied in the Precompliance Report or in a supplement to the Precompliance Report. The Administrator shall evaluate the supporting documentation and shall approve the request only if, in the Administrator's judgment, the specific monitoring equipment would be damaged by the contemporaneous start-up, shutdown, or malfunction.

(A) Documentation supporting a claim that the monitoring equipment would be damaged by the contemporaneous start-up, shutdown, or malfunction; and

(B) A request to incorporate such a provision for ceasing to collect monitoring data during a start-up, shutdown, or malfunction, into the start-up, shutdown, and malfunction plan.

(vii) Supplements to the Precompliance Report may be submitted as specified in paragraph (e)(4)(vii)(A) of this section, or as specified in paragraph (e)(4)(vii)(B) of this section. Unless the Administrator objects to a request submitted in a supplement to the Precompliance Report within 45 days after its receipt, the request shall be deemed approved.

(A) Supplements to the Precompliance Report may be submitted to clarify or modify information previously submitted.

(B) Supplements to the Precompliance Report may be submitted to request approval to use alternative monitoring parameters, as specified in paragraph (e)(4)(iii) of this section; to use alternative continuous monitoring and recordkeeping, as specified in paragraph (e)(4)(iv) of this section; to use alternative controls, as specified in paragraph (e)(4)(v) of this section; or to include a provision for ceasing to collect monitoring data during a start-up, shutdown, or malfunction, in the start-up, shutdown, and malfunction plan, when that monitoring equipment would be damaged if it did not cease to collect monitoring data, as specified in paragraph (e)(4)(vi) of this section.

(viii) If an owner or operator establishes parameter monitoring levels according to the procedures contained in the parameter monitoring provisions in § 63.1438(c) or (d), the following information shall be submitted in the Precompliance Report:

(A) Identification of which procedures (i.e., § 63.1438(c) or (d)) are to be used; and

(B) A description of how the parameter monitoring level is to be established. If the procedures in § 63.1438(c) are to be used, a description of how performance test data will be used shall be included.

(5) *Notification of Compliance Status.* For existing and new affected sources, a Notification of Compliance Status shall be submitted within 150 days after the compliance dates specified in § 63.1422. For equipment leaks subject to § 63.1434, the owner or operator shall submit the information specified in the HON equipment leak Notification of Compliance Status requirements in § 63.182(c), in the Notification of Compliance Status required by this paragraph. For all other emission points, including heat exchange systems, the Notification of Compliance Status shall contain the information listed in paragraphs (e)(5)(i) through (vii) of this section.

(i) The results of any emission point group determinations, process section applicability determinations, performance tests, inspections, continuous monitoring system performance evaluations, any other information required by the test method to be in the test report used to demonstrate compliance, values of monitored parameters established during performance tests, and any other information required to be included in a Notification of Compliance Status under the requirements for overlapping regulations in § 63.1422(j), the HON storage vessel reporting provisions in § 63.122 and the storage vessel provisions in § 63.1432, and the HON process wastewater reporting provisions in § 63.146. In addition, the owner or operator shall comply with paragraphs (e)(5)(i)(A) and (B) of this section.

(A) For performance tests, group determinations, or determination that controls are needed, the Notification of Compliance Status shall include one complete test report, as described in paragraph (e)(5)(i)(B) of this section, for each test method used for a particular kind of emission point. For additional tests performed for the same kind of emission point using the same method, the results and any other information required by the test method to be in the test report shall be submitted, but a complete test report is not required.

(B) A complete test report shall include a brief process description, sampling site description, description of sampling and analysis procedures and any modifications to standard procedures, quality assurance procedures, record of operating conditions during the test, record of preparation of standards (if the owner or operator prepares the standards), record of calibrations, raw data sheets for field sampling, raw data sheets for field and laboratory analyses, documentation of calculations, and any other information

required by the test method to be in the test report.

(ii) For each monitored parameter for which a maximum or minimum level is required to be established under the HON process vent monitoring requirements in § 63.114(e) and the process vent monitoring requirements in § 63.1429(d), the HON process wastewater parameter monitoring requirements in § 63.143(f), paragraph (e)(8) of this section, or paragraph (f) of this section, the information specified in paragraphs (e)(5)(ii)(A) through (C) of this section shall be submitted. Further, as described in the storage vessel provisions in § 63.1432(k), for those storage vessels for which the parameter monitoring plan (required to be submitted under the HON Notification of Compliance Status requirements for storage vessels in § 63.120(d)(3)) specifies compliance with the parameter monitoring provisions of § 63.1438, the owner or operator shall provide the information specified in paragraphs (e)(5)(ii)(A) through (C) of this section for each monitoring parameter. For those storage vessels for which the parameter monitoring plan required to be submitted under the HON Notification of Compliance Status requirements for storage vessels in § 63.120(d)(2) does not require compliance with the provisions of § 63.1438, the owner or operator shall provide the information specified in § 63.120(d)(3) as part of the Notification of Compliance Status.

(A) The required information shall include the specific maximum or minimum level of the monitored parameter(s) for each emission point.

(B) The required information shall include the rationale for the specific maximum or minimum level for each parameter for each emission point, including any data and calculations used to develop the level and a description of why the level indicates that the combustion, recovery, or recapture device is operated in a manner to ensure compliance with the provisions of this subpart.

(C) The required information shall include a definition of the affected source's operating day, as specified in paragraph (d)(3)(ii) of this section, for purposes of determining daily average values of monitored parameters.

(iii) The determination of applicability for flexible operation units as specified in § 63.1420(e)(1)(iii).

(iv) The parameter monitoring levels for flexible operation units, and the basis on which these levels were selected, or a demonstration that these levels are appropriate at all times, as specified in § 63.1420(e)(7).

(v) The results for each predominant use determination made under § 63.1420(f)(1) through (7), for storage vessels assigned to an affected source subject to this subpart.

(vi) If any emission point is subject to this subpart and to other standards as specified in § 63.1422(j), and if the provisions of § 63.1422(j) allow the owner or operator to choose which testing, monitoring, reporting, and recordkeeping provisions will be followed, then the Notification of Compliance Status shall indicate which rule's requirements will be followed for testing, monitoring, reporting, and recordkeeping.

(vii) An owner or operator who transfers a Group 1 wastewater stream or residual removed from a Group 1 wastewater stream for treatment pursuant to § 63.132(g) shall include in the Notification of Compliance Status the name and location of the transferee and a description of the Group 1 wastewater stream or residual sent to the treatment facility.

(6) *Periodic Reports.* For existing and new affected sources, the owner or operator shall submit Periodic Reports as specified in paragraphs (e)(6)(i) through (viii) of this section. In addition, for equipment leaks subject to § 63.1434, the owner or operator shall submit the information specified in the HON periodic reporting requirements in § 63.182(d), and for heat exchange systems subject to § 63.1434, the owner or operator shall submit the information specified in the HON heat exchange system reporting requirements in § 63.104(f)(2), as part of the Periodic Report required by this paragraph (e)(6).

(i) Except as specified in paragraphs (e)(6)(viii) of this section, a report containing the information in paragraph (e)(6)(ii) of this section or paragraphs (e)(6)(iii) through (vii) of this section, as appropriate, shall be submitted semiannually no later than 60 days after the end of each 180-day period. The first report shall be submitted no later than 240 days after the date the Notification of Compliance Status is due and shall cover the 6-month period beginning on the date the Notification of Compliance Status is due. Subsequent reports shall cover each preceding 6-month period.

(ii) If none of the compliance exceptions in paragraphs (e)(6)(iii) through (vii) of this section occurred during the 6-month period, the Periodic Report required by paragraph (e)(6)(i) of this section shall be a statement that there were no compliance exceptions, as described in this paragraph, for the 6-month period covered by that report and that none of the activities specified in paragraphs (e)(6)(iii) through (vii) of this

section occurred during the period covered by that report.

(iii) For an owner or operator of an affected source complying with the provisions of §§ 63.1432 through 63.1433 for any emission point, Periodic Reports shall include:

(A) All information specified in the HON periodic reporting requirements in § 63.122(a)(4) for storage vessels and in § 63.146(c) through § 63.146(f) for process wastewater.

(B) The daily average values of monitored parameters for all excursions, as defined in § 63.1438(f).

(C) The periods when monitoring data were not collected shall be specified; and

(D) The information in paragraphs (e)(6)(iii)(D)(1) through (3) of this section, as applicable:

(1) Notification if a process change is made such that the group status of any emission point changes from Group 2 to Group 1. The owner or operator is not required to submit a notification of a process change if that process change caused the group status of an emission point to change from Group 1 to Group 2. However, until the owner or operator notifies the Administrator that the group status of an emission point has changed from Group 1 to Group 2, the owner or operator is required to continue to comply with the Group 1 requirements for that emission point. This notification may be submitted at any time.

(2) Notification if one or more emission points (other than equipment leak components subject to § 63.1434), or one or more PMPUs is added to an affected source. The owner or operator shall submit the information contained in paragraphs (e)(6)(iii)(D)(2)(i) and (ii) of this section.

(i) A description of the addition to the affected source.

(ii) Notification of the group status or control requirement for the additional emission point or all emission points in the PMPU.

(3) For process wastewater streams sent for treatment pursuant to § 63.132(g), reports of changes in the identity of the treatment facility or transferee.

(E) The information in paragraph (b)(1)(ii) of this section for reports of start-up, shutdown, and malfunction.

(iv) If any performance tests are reported in a Periodic Report, the following information shall be included:

(A) One complete test report shall be submitted for each test method used for a particular kind of emission point tested. A complete test report shall contain the information specified in paragraph (e)(5)(i)(B) of this section.

(B) For additional tests performed for the same kind of emission point using the same method, results and any other information required by the test method to be in the test report shall be submitted, but a complete test report is not required.

(v) The results for each change made to a primary product determination for a PMPU made under § 63.1420(e)(3) or (10).

(vi) The results for each reevaluation of the applicability of this subpart to a storage vessel that begins receiving material from (or sending material to) a process unit that was not included in the initial determination, or a storage vessel that ceases to receive material from (or send material to) a process unit that was included in the initial determination, in accordance with § 63.1420(f)(8).

(vii) The Periodic Report required by the equipment leak provisions in § 63.1434(f) shall be submitted as part of the Periodic Report required by paragraph (e)(6) of this section.

(viii) The owner or operator of an affected source shall submit quarterly reports for particular emission points and process sections as specified in paragraphs (e)(6)(viii)(A) through (D) of this section.

(A) The owner or operator of an affected source shall submit quarterly reports for a period of 1 year for an emission point or process section if the emission point or process section meets the conditions in paragraph (e)(6)(viii)(A)(1) or (2) of this section.

(1) A combustion, recovery, or recapture device for a particular emission point or process section has more excursions, as defined in § 63.1438(f), than the number of excused excursions allowed under § 63.1438(g) for a semiannual reporting period; or

(2) The Administrator requests the owner or operator to submit quarterly reports for that emission point or process section.

(B) The quarterly reports shall include all information specified in paragraphs (e)(6)(iii) through (vii) of this section, as applicable to the emission point or process section for which quarterly reporting is required under paragraph (e)(6)(viii)(A) of this section.

Information applicable to other emission points within the affected source shall be submitted in the semiannual reports required under paragraph (e)(6)(i) of this section.

(C) Quarterly reports shall be submitted no later than 60 days after the end of each quarter.

(D) After quarterly reports have been submitted for an emission point for 1 year without more excursions occurring

(during that year) than the number of excused excursions allowed under § 63.1438(g), the owner or operator may return to semiannual reporting for the emission point or process section.

(7) *Other reports.* The notifications of inspections required by the storage vessel provisions in § 63.1432 shall be submitted, as specified in the HON storage vessel provisions in § 63.122(h)(1) and (2), and in paragraphs (e)(7)(i) and (ii) of this section.

(i) When the conditions in the HON storage vessel provisions in §§ 63.1420(e)(3)(i) or 63.1420(e)(4)(i) are met, reports of changes to the primary product for a PMPU or process unit, as required by § 63.1420(e)(3)(ii) or § 63.1420(g)(3), respectively, shall be submitted.

(ii) Owners or operators of PMPU or emission points (other than equipment leak components subject to § 63.1434) that are subject to provisions for changes or additions to plant sites in § 63.1420(g)(1) or (2) shall submit a report as specified in paragraphs (e)(7)(ii)(A) and (B) of this section.

(A) Reports shall include:

(1) A description of the process change or addition, as appropriate;

(2) The planned start-up date and the appropriate compliance date, according to § 63.1420(g)(1) or (2); and

(3) Identification of the group status of emission points (except equipment leak components subject to the requirements in § 63.1434) specified in paragraphs (e)(7)(ii)(A)(3)(i) through (iii) of this section, as applicable.

(i) All the emission points in the added PMPU, as described in § 63.1420(g)(1).

(ii) All the emission points in an affected source designated as a new affected source under § 63.1420(g)(2)(i).

(iii) All the added or created emission points as described in § 63.1420(g)(2)(ii).

(4) If the owner or operator wishes to request approval to use alternative monitoring parameters, alternative continuous monitoring or recordkeeping, alternative controls, or wishes to establish parameter monitoring levels according to the procedures contained in § 63.1438(c) or (d), a Precompliance Report shall be submitted in accordance with paragraph (e)(7)(ii)(B) of this section.

(B) Reports shall be submitted as specified in paragraphs (e)(7)(ii)(B)(1) through (3) of this section, as appropriate.

(1) Owners or operators of an added PMPU subject to § 63.1420(g)(1) shall submit a report no later than 180 days prior to the compliance date for the PMPU.

(2) Owners or operators of an affected source designated as a new affected source under § 63.1420(g)(2)(i) shall submit a report no later than 180 days prior to the compliance date for the affected source.

(3) Owners and operators of any emission point (other than equipment leak components subject to § 63.1434) subject to § 63.1420(g)(2)(ii) shall submit a report no later than 180 days prior to the compliance date for those emission points.

(8) *Operating permit application.* An owner or operator who submits an operating permit application instead of a Precompliance Report shall submit the information specified in paragraph (e)(4) of this section, as applicable, with the operating permit application.

(f) *Alternative monitoring parameters.* The owner or operator who has been directed by any section of this subpart, or any section of another subpart referenced by this subpart, that specifically references this paragraph to set unique monitoring parameters, or who requests approval to monitor a different parameter than those listed in § 63.1432 for storage vessels, § 63.1427 for ECO, § 63.1429 for process vents, or § 63.143 for process wastewater shall submit the information specified in paragraphs (f)(1) through (3) of this section in the Precompliance Report, as required by paragraph (e)(4) of this section. The owner or operator shall retain for a period of 5 years each record required by paragraphs (f)(1) through (3) of this section.

(1) The required information shall include a description of the parameter(s) to be monitored to ensure the combustion, recovery, or recapture device; control technique; or pollution prevention measure is operated in conformance with its design and achieves the specified emission limit, percent reduction, or nominal efficiency, and an explanation of the criteria used to select the parameter(s).

(2) The required information shall include a description of the methods and procedures that will be used to demonstrate that the parameter indicates proper operation, the schedule for this demonstration, and a statement that the owner or operator will establish a level for the monitored parameter as part of the Notification of Compliance Status report required in paragraph (e)(5) of this section, unless this information has already been included in the operating permit application.

(3) The required information shall include a description of the proposed monitoring, recordkeeping, and reporting system, to include the frequency and content of monitoring,

recordkeeping, and reporting. Further, the rationale for the proposed monitoring, recordkeeping, and reporting system shall be included if either condition in paragraph (f)(3)(i) or (ii) of this section is met:

(i) If monitoring and recordkeeping is not continuous; or

(ii) If reports of daily average values will not be included in Periodic Reports when the monitored parameter value is above the maximum level or below the minimum level as established in the operating permit or the Notification of Compliance Status.

(g) *Alternative continuous monitoring and recordkeeping.* An owner or operator choosing not to implement the continuous parameter operating and recordkeeping provisions listed in § 63.1429 for process vents, and § 63.1433 for wastewater, may instead request approval to use alternative continuous monitoring and recordkeeping provisions according to the procedures specified in paragraphs (g)(1) through (4) of this section. Requests shall be submitted in the Precompliance Report as specified in paragraph (e)(4)(iv) of this section, and shall contain the information specified in paragraphs (g)(2)(ii) and (g)(3)(ii) of this section, as applicable.

(1) The provisions in the General Provisions requirements for the use of an alternative monitoring method in § 63.8(f)(5)(i) shall govern the review and approval of requests.

(2) An owner or operator of an affected source that does not have an automated monitoring and recording system capable of measuring parameter values at least once during approximately equal 15-minute intervals and that does not generate continuous records may request approval to use a nonautomated system with less frequent monitoring, in accordance with paragraphs (g)(2)(i) and (ii) of this section.

(i) The requested system shall include visual reading and recording of the value of the relevant operating parameter no less frequently than once per hour. Daily averages shall be calculated from these hourly values and recorded.

(ii) The request shall contain:

(A) A description of the planned monitoring and recordkeeping system;

(B) Documentation that the affected source does not have an automated monitoring and recording system;

(C) Justification for requesting an alternative monitoring and recordkeeping system; and

(D) Demonstration that the proposed monitoring frequency is sufficient to represent combustion, recovery, or

recapture device operating conditions, considering typical variability of the specific process and combustion, recovery, or recapture device operating parameter being monitored.

(3) An owner or operator may request approval to use an automated data compression recording system that does not record monitored operating parameter values at a set frequency (for example, once at approximately equal intervals of about 15 minutes), but that records all values that meet set criteria for variation from previously recorded values, in accordance with paragraphs (g)(3)(i) and (ii) of this section.

(i) The requested system shall be designed to:

(A) Measure the operating parameter value at least once during approximately equal 15-minute intervals;

(B) Record at least four values each hour during periods of operation;

(C) Record the date and time when monitors are turned off or on;

(D) Recognize unchanging data that may indicate the monitor is not functioning properly, alert the operator, and record the incident;

(E) Calculate daily average values of the monitored operating parameter based on all measured data; and

(F) If the daily average is not an excursion, as defined in § 63.1438(f), the data for that operating day may be converted to hourly average values and the four or more individual records for each hour in the operating day may be discarded.

(ii) The request shall contain:

(A) A description of the monitoring system and data compression recording system, including the criteria used to determine which monitored values are recorded and retained;

(B) The method for calculating daily averages; and

(C) A demonstration that the system meets all criteria in paragraph (g)(3)(i) of this section.

(4) An owner or operator may request approval to use other alternative monitoring systems according to the procedures specified in the General Provisions' requirements for using an alternative monitoring method in § 63.8(f)(4).

(h) *Reduced recordkeeping program.* For any parameter with respect to any item of equipment, the owner or operator may implement the recordkeeping requirements in paragraph (h)(1) or (2) of this section as alternatives to the continuous operating parameter monitoring and recordkeeping provisions that would otherwise apply under this subpart. The owner or operator shall retain for a

period of 5 years each record required by paragraph (h)(1) or (2) of this section.

(1) The owner or operator may retain only the daily average value, and is not required to retain more frequent monitored operating parameter values, for a monitored parameter with respect to an item of equipment, if the requirements of paragraphs (h)(1)(i) through (iv) of this section are met. An owner or operator electing to comply with the requirements of paragraph (h)(1) of this section shall notify the Administrator in the Notification of Compliance Status or, if the Notification of Compliance Status has already been submitted, in the Periodic Report immediately preceding implementation of the requirements of paragraph (h)(1) of this section.

(i) The monitoring system is capable of detecting unrealistic or impossible data during periods of operation other than start-ups, shutdowns or malfunctions (e.g., a temperature reading of -200°C on a boiler), and will alert the operator by alarm or other means. The owner or operator shall record the occurrence. All instances of the alarm or other alert in an operating day constitute a single occurrence.

(ii) The monitoring system generates, updated at least hourly throughout each operating day, a running average of the monitoring values that have been obtained during that operating day, and the capability to observe this running average is readily available to the Administrator on-site during the operating day. The owner or operator shall record the occurrence of any period meeting the criteria in paragraphs (h)(1)(ii)(A) through (C) of this section. All instances in an operating day constitute a single occurrence.

(A) The running average is above the maximum or below the minimum established limits;

(B) The running average is based on at least six 1-hour average values; and

(C) The running average reflects a period of operation other than a start-up, shutdown, or malfunction.

(iii) The monitoring system is capable of detecting unchanging data during periods of operation other than start-ups, shutdowns or malfunctions, except in circumstances where the presence of unchanging data are the expected operating condition based on past experience (e.g., pH in some scrubbers), and will alert the operator by alarm or other means. The owner or operator shall record the occurrence. All instances of the alarm or other alert in an operating day constitute a single occurrence.

(iv) The monitoring system will alert the owner or operator by an alarm or other means, if the running average parameter value calculated under paragraph (h)(1)(ii) of this section reaches a set point that is appropriately related to the established limit for the parameter that is being monitored.

(v) The owner or operator shall verify the proper functioning of the monitoring system, including its ability to comply with the requirements of paragraph (h)(1) of this section, at the times specified in paragraphs (h)(1)(v)(A) through (C) of this section. The owner or operator shall document that the required verifications occurred.

(A) Upon initial installation.

(B) Annually after initial installation.

(C) After any change to the programming or equipment constituting the monitoring system, which might reasonably be expected to alter the monitoring system's ability to comply with the requirements of this section.

(vi) The owner or operator shall retain the records identified in paragraphs (h)(1)(vi)(A) through (D) of this section.

(A) Identification of each parameter, for each item of equipment, for which the owner or operator has elected to comply with the requirements of paragraph (h) of this section.

(B) A description of the applicable monitoring system(s), and how compliance will be achieved with each requirement of paragraphs (h)(1)(i) through (v) of this section. The description shall identify the location and format (e.g., on-line storage, log entries) for each required record. If the description changes, the owner or operator shall retain both the current and the most recent superseded description, as specified in paragraph (h)(1)(vi)(D) of this section.

(C) A description, and the date, of any change to the monitoring system that would reasonably be expected to affect its ability to comply with the requirements of paragraph (h)(1) of this section.

(D) The owner or operator subject to paragraph (h)(1)(vi)(B) of this section shall retain the current description of the monitoring system as long as the description is current. The current description shall, at all times, be retained on-site or be accessible from a central location by computer or other means that provides access within 2 hours after a request. The owner or operator shall retain all superseded descriptions for at least 5 years after the date of their creation. Superseded descriptions shall be retained on-site (or accessible from a central location by computer or other means that provides access within 2 hours after a request) for

at least 6 months after their creation. Thereafter, superseded descriptions may be stored off-site.

(2) If an owner or operator has elected to implement the requirements of paragraph (h)(1) of this section for a monitored parameter with respect to an item of equipment and a period of 6 consecutive months has passed without an excursion as defined in paragraph (h)(2)(iv) of this section, the owner or operator is no longer required to record the daily average value, for any operating day when the daily average is less than the maximum, or greater than the minimum established limit. With approval by the Administrator, monitoring data generated prior to the compliance date of this subpart shall be credited toward the period of 6 consecutive months, if the parameter limit and the monitoring accomplished during the period prior to the compliance date was required and/or approved by the Administrator.

(i) If the owner or operator elects not to retain the daily average values, the owner or operator shall notify the

Administrator in the next Periodic Report. The notification shall identify the parameter and unit of equipment.

(ii) If, on any operating day after the owner or operator has ceased recording daily average values as provided in paragraph (h)(2) of this section, there is an excursion as defined in paragraph (h)(2)(iv) of this section, the owner or operator shall immediately resume retaining the daily average value for each operating day and shall notify the Administrator in the next Periodic Report. The owner or operator shall continue to retain each daily average value until another period of 6 consecutive months has passed without an excursion as defined in paragraph (h)(2)(iv) of this section.

(iii) The owner or operator shall retain the records specified in paragraph (h)(1) of this section, for the duration specified in paragraph (h) of this section. For any calendar week, if compliance with paragraphs (h)(1)(i) through (iv) of this section does not result in retention of a record of at least one occurrence or measured parameter value, the owner or

operator shall record and retain at least one parameter value during a period of operation other than a start-up, shutdown, or malfunction.

(iv) For the purposes of paragraph (h) of this section, an excursion means that the daily average of monitoring data for a parameter is greater than the maximum, or less than the minimum established value, except as provided in paragraphs (h)(2)(iv)(A) and (B) of this section.

(A) The daily average value during any start-up, shutdown, or malfunction shall not be considered an excursion for purposes of paragraph (h)(2) of this section, if the owner or operator follows the applicable provisions of the start-up, shutdown, and malfunction plan required by the General Provisions in § 63.6(e)(3).

(B) An excused excursion, as described in § 63.1438(g), shall not be considered an excursion for the purposes of paragraph (h)(2) of this section.

TABLE 1 TO SUBPART PPP OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART PPP AFFECTED SOURCES

Reference	Applies to subpart PPP	Explanation
63.1(a)(1)	Yes	§ 63.1423 specifies definitions in addition to or that apply instead of definitions in § 63.2.
63.1(a)(2)	Yes	
63.1(a)(3)	Yes	§ 63.1422(f) through (k) of this subpart and § 63.160(b) identify those standards which overlap with the requirements of subparts PPP and H and specify how compliance shall be achieved.
63.1(a)(4)	Yes	Subpart PPP (this table) specifies the applicability of each paragraph in subpart A to subpart PPP.
63.1(a)(5)	No	Reserved.
63.1(a)(6)–(8)	Yes	
63.1(a)(9)	No	Reserved.
63.1(a)(10)	Yes	
63.1(a)(11)	Yes	
63.1(a)(12)–(14)	Yes	
63.1(b)(1)	No	§ 63.1420(a) contains specific applicability criteria.
63.1(b)(2)	Yes	
63.1(b)(3)	Yes	
63.1(c)(1)	Yes	Subpart PPP (this table) specifies the applicability of each paragraph in subpart A to subpart PPP.
63.1(c)(2)	No	Area sources are not subject to subpart PPP.
63.1(c)(3)	No	Reserved.
63.1(c)(4)	Yes	
63.1(c)(5)	Yes	Except that affected sources are not required to submit notifications overridden by this table.
63.1(d)	No	Reserved.
63.1(e)	Yes	
63.2	Yes	§ 63.1423 specifies those subpart A definitions that apply to subpart PPP.
63.3	Yes	
63.4(a)(1)–(3)	Yes	
63.4(a)(4)	No	Reserved.
63.4(a)(5)	Yes	
63.4(b)	Yes	
63.4(c)	Yes	
63.5(a)(1)	Yes	Except the terms "source" and "stationary source" should be interpreted as having the same meaning as "affected source".
63.5(a)(2)	Yes	
63.5(b)(1)	Yes	Except § 63.1420(g) defines when construction or reconstruction is subject to new source standards.

TABLE 1 TO SUBPART PPP OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART PPP AFFECTED SOURCES—Continued

Reference	Applies to subpart PPP	Explanation
63.5(b)(2)	No	Reserved
63.5(b)(3)	Yes	
63.5(b)(4)	Yes	Except that the Initial Notification requirements in § 63.1439(e)(3) shall apply instead of the requirements in § 63.9(b)
63.5(b)(5)	Yes	
63.5(b)(6)	Yes	Except that § 63.1420(g) defines when construction or reconstruction is subject to the new source standards
63.5(c)	No	Reserved
63.5(d)(1)(i)	Yes	
63.5(d)(1)(ii)	Yes	Except that § 63.5(d)(1)(ii)(H) does not apply
63.5(d)(1)(iii)	No	§ 63.1439(e)(5) and § 63.1434(e) specify Notification of Compliance Status requirements
63.5(d)(2)	No	
63.5(d)(3)	Yes	Except § 63.5(d)(3)(ii) does not apply, and equipment leaks subject to § 63.1434 are exempt
63.5(d)(4)	Yes	
63.5(e)	Yes	
63.5(f)(1)	Yes	
63.5(f)(2)	Yes	Except that where § 63.9(b)(2) is referred to, the owner or operator need not comply
63.6(a)	Yes	
63.6(b)(1)	Yes	
63.6(b)(2)	Yes	
63.6(b)(3)	Yes	
63.6(b)(4)	Yes	
63.6(b)(5)	Yes	
63.6(b)(6)	No	Reserved
63.6(b)(7)	No	
63.6(c)(1)	Yes	§ 63.1422 specifies the compliance date
63.6(c)(2)	No	
63.6(c)(3)	No	Reserved
63.6(c)(4)	No	Reserved
63.6(c)(5)	Yes	
63.6(d)	No	Reserved
63.6(e)	Yes	Except as otherwise specified for individual paragraphs (below), and § 63.6(e) does not apply to Group 2 emission points. ^a
63.6(e)(1)(i)	No	This is addressed by § 63.1420(h)(4).
63.6(e)(1)(ii)	Yes	
63.6(e)(1)(iii)	Yes	
63.6(e)(2)	Yes	
63.6(e)(3)(i)	Yes	For equipment leaks (subject to § 63.1434), the start-up, shutdown, and malfunction plan requirement of § 63.6(e)(3)(i) is limited to combustion, recovery, or recapture devices and is optional for other equipment. The start-up, shutdown, and malfunction plan may include written procedures that identify conditions that justify a delay of repair
63.6(e)(3)(i)(A)	Yes	This is also addressed by § 63.1420(h)(4)
63.6(e)(3)(i)(B)	Yes	
63.6(e)(3)(i)(C)	Yes	
63.6(e)(3)(ii)	Yes	
63.6(e)(3)(iii)	No	Recordkeeping and reporting are specified in § 63.1439(b)(1)
63.6(e)(3)(iv)	No	Recordkeeping and reporting are specified in § 63.1439(b)(1)
63.6(e)(3)(v)	No	Requirement is specified in § 63.1439(b)(1).
63.6(e)(3)(vi)	Yes	
63.6(e)(3)(vii)	Yes	
63.6(e)(3)(vii)(A)	Yes	
63.6(e)(3)(vii)(B)	Yes	Except the plan shall provide for operation in compliance with § 63.1420(i)(4).
63.6(e)(3)(vii)(C)	Yes	
63.6(e)(3)(viii)	Yes	
63.6(f)(1)	Yes	
63.6(f)(2)	Yes	Except 63.7(c), as referred to in § 63.6(f)(2)(iii)(D) does not apply, and except that § 63.6(f)(2)(ii) does not apply to equipment leaks subject to § 63.1434
63.6(f)(3)	Yes	
63.6(g)	Yes	
63.6(h)	No	Subpart PPP does not require opacity and visible emission standards
63.6(i)(1)	Yes	
63.6(i)(2)	Yes	
63.6(i)(3)	Yes	
63.6(i)(4)(i)(A)	Yes	
63.6(i)(4)(i)(B)	No	Dates are specified in § 63.1422(e) and § 63.1439(e)(4)(i) for all emission points except equipment leaks, which are covered under § 63.182(a)(6)(i)

TABLE 1 TO SUBPART PPP OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART PPP AFFECTED SOURCES—Continued

Reference	Applies to subpart PPP	Explanation
63.6(i)(4)(ii)	No	Reserved.
63.6(i)(5)(14)	Yes	
63.6(i)(15)	No	
63.6(i)(16)	Yes	
63.6(j)	Yes	
63.7(a)(1)	Yes	
63.7(a)(2)	No	§ 63.1439(e)(5) and § 63.1439(e)(6) specify the submittal dates of performance test results for all emission points except equipment leaks; for equipment leaks, compliance demonstration results are reported in the Periodic Reports.
63.7(a)(3)	Yes	§ 63.1437(a)(4) specifies notification requirements.
63.7(b)	No	
63.7(c)	No	
63.7(d)	Yes	Except if the owner or operator chooses to submit an alternative nonopacity emission standard for approval under § 63.6(g).
63.7(e)(1)	Yes	
63.7(e)(2)	Yes	Except that all performance tests shall be conducted during worst case operating conditions.
63.7(e)(3)	No	
63.7(e)(4)	Yes	Subpart PPP specifies requirements.
63.7(f)	Yes	
63.7(g)	Yes	Since a site specific test plan is not required, the notification deadline in § 63.7(f)(2)(i) shall be 60 days prior to the performance test, and in § 63.7(f)(3) approval or disapproval of the alternative test method shall not be tied to the site specific test plan.
63.7(h)	Yes	Except that references to the Notification of Compliance Status report in § 63.9(h) are replaced with the requirements in § 63.1439(e)(5). In addition, equipment leaks subject to § 63.1434 are not required to conduct performance tests.
63.8(a)(1)	Yes	Except § 63.7(h)(4)(ii) is not applicable, since the site-specific test plans in § 63.7(c)(2) are not required.
63.8(a)(2)	No	
63.8(a)(3)	No	Reserved.
63.8(a)(4)	Yes	
63.8(b)(1)	Yes	Support PPP specifies locations to conduct monitoring.
63.8(b)(2)	No	
63.8(b)(3)	Yes	
63.8(c)(1)	Yes	
63.8(c)(1)(i)	Yes	For all emission points except equipment leaks, comply with § 63.1439(b)(1)(i)(B); for equipment leaks, comply with § 63.181(g)(2)(ii).
63.8(c)(1)(ii)	No	
63.8(c)(1)(iii)	Yes	§ 63.1438 specifies monitoring requirements; not applicable to equipment leaks, because § 63.1434 does not require continuous monitoring systems.
63.8(c)(2)	Yes	
63.8(c)(3)	Yes	
63.8(c)(4)	No	
63.8(c)(5)–(8)	No	Except the timeframe for submitting request is specified in § 63.1439(f) or (g); not applicable to equipment leaks, because § 63.1434 (through subpart H) specifies acceptable alternative methods.
63.8(d)	No	
63.8(e)	No	
63.8(f)(1)–(3)	Yes	
63.8(f)(4)(i)	Yes	
63.8(f)(4)(ii)	Yes	
63.8(f)(5)(i)	Yes	Subpart PPP does not require CEM's.
63.8(f)(5)(ii)	No	
63.8(f)(5)(iii)	Yes	Data reduction procedures specified in § 63.1439(d) and (h); not applicable to equipment leaks.
63.8(f)(6)	No	
63.8(g)	No	
63.9(a)	Yes	
63.9(b)	No	The Initial Notification requirements are specified in § 63.1439(e)(3).
63.9(c)	Yes	
63.9(d)	Yes	§ 63.1437(a)(4) specifies notification deadline.
63.9(e)	No	
63.9(f)	No	Subpart PPP does not require opacity and visible emission standards.
63.9(g)	No	
63.9(h)	No	§ 63.1439(e)(5) specifies Notification of Compliance Status requirements.
63.9(i)	Yes	
63.9(j)	No	
63.10(a)	Yes	

TABLE 1 TO SUBPART PPP OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART PPP AFFECTED SOURCES—Continued

Reference	Applies to subpart PPP	Explanation
63.10(b)(1)	No	§ 63.1439(a) specifies record retention requirements
63.10(b)(2)	No	Subpart PPP specifies recordkeeping requirements
63.10(b)(3)	Yes	
63.10(c)	No	§ 63.1439 specifies recordkeeping requirements
63.10(d)(1)	Yes	
63.10(d)(2)	No	§ 63.1439(e)(5) and § 63.1439(e)(6) specify performance test reporting requirements; not applicable to equipment leaks
63.10(d)(3)	No	Subpart PPP does not require opacity and visible emission standards.
63.10(d)(4)	Yes	
63.10(d)(5)	Yes	Except that reports required by § 63.10(d)(5)(i) shall be submitted at the same time as Periodic Reports specified in § 63.1439(e)(6). The start-up, shutdown, and malfunction plan, and any records or reports of start-up, shutdown, and malfunction do not apply to Group 2 emission points
63.10(e)	No	§ 63.1439 specifies reporting requirements
63.10(f)	Yes	
63.11	Yes	
63.12	Yes	Except that the authority of § 63.177 (for equipment leaks) will not be delegated to States
63.13–63.15	Yes	

*The plan, and any records or reports of start-up, shutdown, and malfunction do not apply to Group 2 emission points.

TABLE 2 TO SUBPART PPP OF PART 63.—APPLICABILITY OF SUBPARTS F, G, H, AND U TO SUBPART PPP AFFECTED SOURCES

Reference	Applies to subpart PPP	Explanation	Applicable section of subpart PPP
Subpart F:			
63.100	No		
63.101	Yes	Several definitions from 63.101 are referenced at 63.1423	63.1423.
63.102–63.103	No		
63.104	Yes	With the differences noted in 63.1435(b) through (d)	63.1435.
63.105	Yes	With the differences noted in 63.1433(b)	63.1433.
63.106	No		
Subpart G:			
63.110	No		
63.111	Yes	Several definitions from 63.111 are incorporated by reference into 63.1423	63.1423.
63.112	No		
63.113–63.118	Yes	For THF facilities, with the differences noted in 63.1425(f)(1) through (f)(10).	63.1425.
	No	For epoxide facilities, except that 63.115(d) is used for TRE determinations.	63.1428.
63.119–63.123	Yes	With the differences noted in 63.1432(b) through 63.1432(p)	63.1432.
63.124–63.125	No	Reserved.	
63.126–63.130	No		
63.131	No	Reserved.	
63.132–63.147	Yes	With the differences noted in 63.1433(a)(1) through 63.1433(a)(19)	63.1433.
63.148–63.149	Yes	With the differences noted in 63.1432(b) through 63.1432(p) and 63.1433(a)(1) through 63.1433(a)(19).	63.1432 and 63.1433.
63.150	No		
63.151–63.152	No		
Subpart H:			
63.160–63.182	Yes	Subpart PPP affected sources shall comply with all requirements of subpart H, with the differences noted in 63.1422(d), 63.1422(h), and 63.1434(b) through (g).	63.1434.
Subpart U:			
63.480–63.487	No		
63.488	Yes	Portions of 63.488(b) and (e) are cross-referenced in subpart PPP.	
63.489–63.506	No		

TABLE 3 TO SUBPART PPP OF PART 63.—GROUP 1 STORAGE VESSELS AT EXISTING AND NEW AFFECTED SOURCES

Vessel capacity (cubic meters)	Vapor Pressure ^a (kilopascals)
75 ≤ capacity < 151	≥ 13.1
capacity ≥ 151	≥ 5.2

^aMaximum true vapor pressure of total organic HAP at storage temperature

TABLE 4 TO SUBPART PPP OF PART 63.—KNOWN ORGANIC HAP FROM POLYETHER POLYOL PRODUCTS

Organic HAP/Chemical Name (CAS No.)
1,3 Butadiene (106990)
Ethylene Oxide (75218)
n-Hexane (110543)
Methanol (67561)
Propylene Oxide (75569)
Toluene (108883)

CAS No. = Chemical Abstracts Service Registry Number

TABLE 5 TO SUBPART PPP OF PART 63.—PROCESS VENTS FROM BATCH UNIT OPERATIONS—MONITORING, RECORDKEEPING, AND REPORTING REQUIREMENTS

Control technique	Parameter to be monitored	Recordkeeping and reporting requirements for monitored parameters
Thermal Incinerator	Firebox temperature ^a	<ol style="list-style-type: none"> 1. Continuous records as specified in § 63.1429.^b 2. Record and report the average firebox temperature measured during the performance test—NCS. 3. Record the daily average firebox temperature as specified in § 63.1429. 4. Report all daily average temperatures that are below the minimum operating temperature established in the NCS or operating permit and all instances when monitoring data are not collected—PR.^{d,c}
Catalytic Incinerator	Temperature upstream and downstream of the catalyst bed.	<ol style="list-style-type: none"> 1. Continuous records as specified in § 63.1429.^b 2. Record and report the average upstream and downstream temperatures and the average temperature difference across the catalyst bed measured during the performance test—NCS. 3. Record the daily average upstream temperature and temperature difference across catalyst bed as specified in § 63.1429. 4. Report all daily average upstream temperatures that are below the minimum upstream temperature established in the NCS or operating permit—PR.^d 5. Report all daily average temperature differences across the catalyst bed that are below the minimum difference established in the NCS or operating permit—PR.^{d,c} 6. Report all instances when monitoring data are not collected.^c
Boiler or Process Heater with a design heat input capacity less than 44 megawatts and where the process vents are not introduced with or used as the primary fuel.	Firebox temperature ^a	<ol style="list-style-type: none"> 1. Continuous records as specified in § 63.1429.^b 2. Record and report the average firebox temperature measured during the performance test—NCS.^c 3. Record the daily average firebox temperature as specified in § 63.1429.^d 4. Report all daily average temperatures that are below the minimum operating temperature established in the NCS or operating permit and all instances when monitoring data are not collected—PR.^d
Flare	Presence of a flame at the pilot light.	<ol style="list-style-type: none"> 1. Hourly records of whether the monitor was continuously operating during batch emission episodes selected for control and whether a flame was continuously present at the pilot light during each hour. 2. Record and report the presence of a flame at the pilot light over the full period of the compliance determination—NCS.^c 3. Record the times and durations of all periods during batch emission episodes when all flames at the pilot light of a flare are absent or the monitor is not operating. 4. Report the times and durations of all periods during batch emission episodes selected for control when all flames at the pilot light of a flare are absent—PR.^d
Absorber ^f	Liquid flow rate into or out of the scrubber, or the pressure drop across the scrubber.	<ol style="list-style-type: none"> 1. Records every 15 minutes, as specified in § 63.1429.^b 2. Record and report the average liquid flow rate into or out of the scrubber, or the pressure drop across the scrubber, measured during the performance test—NCS.

TABLE 5 TO SUBPART PPP OF PART 63.—PROCESS VENTS FROM BATCH UNIT OPERATIONS—MONITORING, RECORDKEEPING, AND REPORTING REQUIREMENTS—Continued

Control technique	Parameter to be monitored	Recordkeeping and reporting requirements for monitored parameters
	pH of the scrubber	<ol style="list-style-type: none"> Record the liquid flow rate into or out of the scrubber, or the pressure drop across the scrubber, every 15 minutes, as specified in § 63.1429. Report all scrubber flow rates or pressure drop values that are below the minimum operating value established in the NCS or operating permit and all instances when monitoring data are not collected—PR.^{d,c} Once daily records as specified in § 63.1429.^b Record and report the average pH of the scrubber effluent measured during the performance test—NCS.^c Record at least once daily the pH of the scrubber effluent. Report all pH scrubber effluent readings out of the range established in the NCS or operating permit and all instances when monitoring data are not collected—PR.^{d,c} If a base absorbent is used, report all pH values that are below the minimum operating values. If an acid absorbent is used, report all pH values that are above the maximum operating values.
Condenser ^f	Exit (product side) temperature	<ol style="list-style-type: none"> Continuous records as specified in § 63.1429.^b Record and report the average exit temperature measured during the performance test—NCS. Record the daily average exit temperature as specified in § 63.1429. Report all daily average exit temperatures that are above the maximum operating temperature established in the NCS or operating permit and all instances when monitoring data are not collected—PR.^{d,c}
Carbon Adsorber ^f	Total regeneration stream mass or volumetric flow during carbon bed regeneration cycle(s), and.	<ol style="list-style-type: none"> Record of total regeneration stream mass or volumetric flow for each carbon bed regeneration cycle. Record and report the total regeneration stream mass or volumetric flow during each carbon bed regeneration cycle during the performance test—NCS.^c Report all carbon bed regeneration cycles when the total regeneration stream mass or volumetric flow is above the maximum flow rate established in the NCS or operating permit—PR.^{d,c}
	Temperature of the carbon bed after regeneration and within 15 minutes of completing any cooling cycle(s).	<ol style="list-style-type: none"> Record the temperature of the carbon bed after each regeneration and within 15 minutes of completing any cooling cycle(s). Record and report the temperature of the carbon bed after each regeneration and within 15 minutes of completing any cooling cycle(s) measured during the performance test—NCS.^c Report all carbon bed regeneration cycles when the temperature of the carbon bed after regeneration, or within 15 minutes of completing any cooling cycle(s), is above the maximum temperature established in the NCS or operating permit—PR.^{d,c}
Absorber, Condenser, and Carbon Adsorber (as an alternative to the above).	Concentration level or reading indicated by an organic monitoring device at the outlet of the recovery device.	<ol style="list-style-type: none"> Continuous records as specified in § 63.1429.^b Record and report the average concentration level or reading measured during the performance test—NCS. Record the daily average concentration level or reading as specified in § 63.1429. Report all daily average concentration levels or readings that are above the maximum concentration or reading established in the NCS or operating permit and all instances when monitoring data are not collected—PR.^{d,c}
All Combustion, recovery, or recapture devices.	Diversion to the atmosphere from the combustion, recovery, or recapture device or.	<ol style="list-style-type: none"> Hourly records of whether the flow indicator was operating during batch emission episodes selected for control and whether a diversion was detected at any time during the hour, as specified in § 63.1429. Record and report the times of all periods during batch emission episodes selected for control when emissions are diverted through a bypass line, or the flow indicator is not operating—PR.^d
	Monthly inspections of sealed valves.	<ol style="list-style-type: none"> Records that monthly inspections were performed as specified in § 63.1429. Record and report all monthly inspections that show that valves are in the diverting position or that a seal has been broken—PR.^d

TABLE 5 TO SUBPART PPP OF PART 63.—PROCESS VENTS FROM BATCH UNIT OPERATIONS—MONITORING, RECORDKEEPING, AND REPORTING REQUIREMENTS—Continued

Control technique	Parameter to be monitored	Recordkeeping and reporting requirements for monitored parameters
ECO	Time from the end of the epoxide feed, or the epoxide partial pressure in the reactor or direct measurement of epoxide concentration in the reactor liquid at the end of the ECO.	<ol style="list-style-type: none"> 1. Records at the end of each batch, as specified in § 63.1427(i). 2. Record and report the average parameter value of the parameters chosen, measured during the performance test. 3. Record the batch cycle ECO duration, epoxide partial pressure, or epoxide concentration in the liquid at the end of the ECO. 4. Report all batch cycle parameter values outside of the ranges established in accordance with § 63.1427(i)(3) and all instances when monitoring data were not collected—PR.^d

Monitor may be installed in the firebox or in the ductwork immediately downstream of the firebox before any substantial heat exchange is encountered.

^b "Continuous records" is defined in § 63.111.

^c NCS = Notification of Compliance Status described in § 63.1429.

^d PR = Periodic Reports described in § 63.1429.

^e The periodic reports shall include the duration of periods when monitoring data are not collected as specified in § 63.1439.

^f Alternatively, these devices may comply with the organic monitoring device provisions listed at the end of this table.

TABLE 6 TO SUBPART PPP OF PART 63.—PROCESS VENTS FROM CONTINUOUS UNIT OPERATIONS—MONITORING, RECORDKEEPING, AND REPORTING REQUIREMENTS

Control technique	Parameter to be monitored	Recordkeeping and reporting requirements for monitored parameters
Thermal Incinerator	Firebox temperature ^a	<ol style="list-style-type: none"> 1. Continuous records as specified in § 63.1429.^b 2. Record and report the average firebox temperature measured during the performance test—NCS.^c 3. Record the daily average firebox temperature for each operating day. 4. Report all daily average temperatures that are below the minimum operating temperature established in the NCS or operating permit and all instances when sufficient monitoring data are not collected—PR.^{d,e}
Catalytic Incinerator	Temperature upstream and downstream of the catalyst bed.	<ol style="list-style-type: none"> 1. Continuous records as specified in § 63.1429.^b 2. Record and report the average upstream and downstream temperatures and the average temperature difference across the catalyst bed measured during the performance test—NCS.^c 3. Record the daily average upstream temperature and temperature difference across catalyst bed for each operating day. 4. Report all daily average upstream temperatures that are below the minimum upstream temperature established in the NCS or operating permit—PR.^{d,e} 5. Report all daily average temperature differences across the catalyst bed that are below the minimum difference established in the NCS or operating permit—PR.^{d,e} 6. Report all operating days when insufficient monitoring data are collected.
Boiler or Process Heater with a design heat input capacity less than 44 megawatts and where the process vents are not introduced with or used as the primary fuel.	Firebox temperature ^a	<ol style="list-style-type: none"> 1. Continuous records as specified in § 63.1429.^b 2. Record and report the average firebox temperature measured during the performance test—NCS.^c 3. Record the daily average firebox temperature for each operating day.^d 4. Report all daily average temperatures that are below the minimum operating temperature established in the NCS or operating permit and all instances when insufficient monitoring data are collected—PR.^{d,e}
Flare	Presence of a flame at the pilot light.	<ol style="list-style-type: none"> 1. Hourly records of whether the monitor was continuously operating and whether a flame was continuously present at the pilot light during each hour. 2. Record and report the presence of a flame at the pilot light over the full period of the compliance determination—NCS.^c 3. Record the times and durations of all periods when all flames at the pilot light of a flare are absent or the monitor is not operating. 4. Report the times and durations of all periods when all flames at the pilot light of a flare are absent—PR.^d
Absorber ^f	Exit temperature of the absorbing liquid, and.	<ol style="list-style-type: none"> 1. Continuous records as specified in § 63.1429.^b 2. Record and report the exit temperature of the absorbing liquid averaged over the full period of the TRE determination—NCS.^c 3. Record the daily average exit temperature of the absorbing liquid for each operating day. 4. Report all the daily average exit temperatures of the absorbing liquid that are below the minimum operating value established in the NCS or operating—PR.^{d,e}

TABLE 6 TO SUBPART PPP OF PART 63.—PROCESS VENTS FROM CONTINUOUS UNIT OPERATIONS—MONITORING, RECORDKEEPING, AND REPORTING REQUIREMENTS—Continued

Control technique	Parameter to be monitored	Recordkeeping and reporting requirements for monitored parameters
Condenser ¹	Exit specific gravity for the absorbing liquid	<ol style="list-style-type: none"> 1 Continuous records as specified in § 63.1429.^b 2 Record and report the exit specific gravity averaged over the full period of the TRE determination—NCS 3 Record the daily average exit specific gravity for each operating day 4 Report all daily average exit specific gravity values that are below the minimum operating value established in the NCS or operating permit—PR.^d
	Exit (product side) temperature	<ol style="list-style-type: none"> 1 Continuous records as specified in § 63.1429.¹ 2 Record and report the exit temperature averaged over the full period of the TRE determination—NCS 3 Record the daily average exit temperature for each operating day. 4 Report all daily average exit temperatures that are above the maximum operating temperature established in the NCS or operating—PR.^d
Carbon Adsorber ¹	Total regeneration stream mass or volumetric flow during carbon bed regeneration cycle(s), and	<ol style="list-style-type: none"> 1 Record of total regeneration stream mass or volumetric flow for each carbon bed regeneration cycle. 2 Record and report the total regeneration stream mass or volumetric flow during each carbon bed regeneration cycle during the period of the TRE determination—NCS.¹ 3 Report all carbon bed regeneration cycles when the total regeneration stream mass or volumetric flow is above the maximum flow rate established in the NCS or operating permit—PR.^d
	Temperature of the carbon bed after regeneration and within 15 minutes of completing any cooling cycle(s).	<ol style="list-style-type: none"> 1 Record the temperature of the carbon bed after each regeneration and within 15 minutes of completing any cooling cycle(s). 2 Record and report the temperature of the carbon bed after each regeneration during the period of the TRE determination—NCS. 3 Report all carbon bed regeneration cycles when the temperature of the carbon bed after regeneration is above the maximum temperature established in the NCS or operating permit—PR.^d
Absorber, Condenser, and Carbon Adsorber (as an alternative to the above)	Concentration level or reading indicated by an organic monitoring device at the outlet of the recovery device	<ol style="list-style-type: none"> 1 Continuous records as specified in § 63.1429.^b 2 Record and report the concentration level or reading averaged over the full period of the TRE determination—NCS. 3 Record the daily average concentration level or reading for each operating day. 4 Report all daily average concentration levels or readings that are above the maximum concentration or reading established in the NCS or operating—PR.^d
All Combustion, recovery, or recapture devices	Diversion to the atmosphere from the combustion, recovery, or recapture device or.	<ol style="list-style-type: none"> 1 Hourly records of whether the flow indicator was operating and whether a diversion was detected at any time during each hour 2 Record and report the times of all periods when the vent stream is diverted through a bypass line, or the flow indicator is not operating—PR.^d
	Monthly inspections of sealed valves	<ol style="list-style-type: none"> 1 Records that monthly inspections were performed as specified in § 63.1429. 2 Record and report all monthly inspections that show that valves are in the diverting position or that a seal has been broken—PR.^d

¹ Monitor may be installed in the firebox or in the ductwork immediately downstream of the firebox before any substantial heat exchange is encountered

^b "Continuous records" is defined in § 63.111

^c NCS = Notification of Compliance Status described in § 63.1429

^d PR = Periodic Reports described in § 63.1429.

^e The periodic reports shall include the duration of periods when monitoring data are not collected as specified in § 63.1439.

^f Alternatively, these devices may comply with the organic monitoring device provisions listed at the end of this table

TABLE 7 TO SUBPART PPP OF PART 63.—OPERATING PARAMETERS FOR WHICH MONITORING LEVELS ARE REQUIRED TO BE ESTABLISHED FOR PROCESS VENTS STREAMS

Control technique	Parameters to be monitored	Established operating parameter(s)
Thermal incinerator	Firebox temperature	Minimum temperature.
Catalytic incinerator	Temperature upstream and downstream of the catalyst bed.	Minimum upstream temperature; and minimum temperature difference across the catalyst bed.
Boiler or process heater	Firebox temperature	Minimum temperature.
Absorber	Liquid flow rate or pressure drop; and pH of scrubber effluent, if an acid or base absorbent is used	Minimum flow rate or pressure drop; and maximum pH if an acid absorbent is used, or minimum pH if a base absorbent is used.
Condenser	Exit temperature	Maximum temperature.

TABLE 7 TO SUBPART PPP OF PART 63.—OPERATING PARAMETERS FOR WHICH MONITORING LEVELS ARE REQUIRED TO BE ESTABLISHED FOR PROCESS VENTS STREAMS—Continued

Control technique	Parameters to be monitored	Established operating parameter(s)
Carbon adsorber	Total regeneration stream mass or volumetric flow during carbon bed regeneration cycle; and temperature of the carbon bed after regeneration (and within 15 minutes of completing any cooling cycle(s)).	Maximum mass or volumetric flow, and maximum temperature.
Extended Cookout (ECO)	Time from the end of the epoxide feed to the end of the ECO, or the reactor epoxide partial pressure at the end of the ECO, or the epoxide concentration in the reactor liquid at the end of the ECO.	Minimum duration, or maximum partial pressure at the end of ECO, or maximum epoxide concentration in the reactor liquid at the end of ECO.
Other devices (or as an alternate to the above). ^a	HAP concentration level or reading at outlet of device.	Maximum HAP concentration or reading.

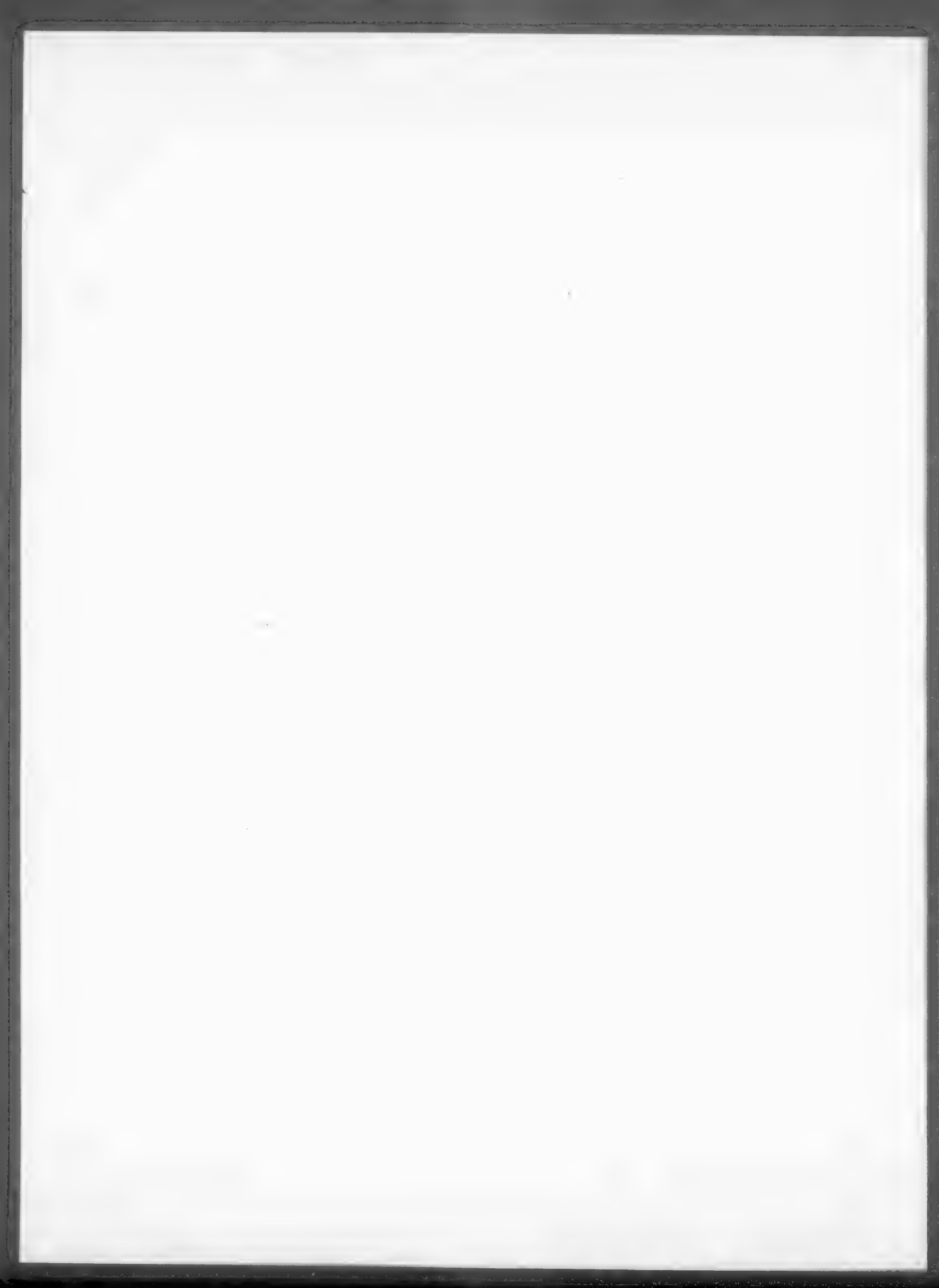
^a Concentration is measured instead of an operating parameter.

TABLE 8 TO SUBPART PPP OF PART 63.—ROUTINE REPORTS REQUIRED BY THIS SUBPART

Reference	Description of Report	Due Date
§ 63.1439(b) and Subpart A	Refer to § 63.1439(b), Table 1 of this subpart, and to subpart A.	Refer to subpart A.
§ 63.1439(e)(3)	Initial notification	Existing affected sources: by 120 days after June 1, 1999. New affected sources w/initial start-up at least 90 days after June 1, 1999: submit the application for approval of construction or reconstruction in lieu of the Initial Notification. New affected sources w/initial start-up prior to 90 days after June 1, 1999: by 90 days after June 1, 1999.
§ 63.1439(e)(4)	Precompliance Report ^a	Existing affected sources: 12 months prior to compliance date. New affected sources: with the application for approval of construction or reconstruction.
§ 63.1439(e)(5)	Notification of Compliance Status ^b	Within 150 days after the compliance date.
§ 63.1439(e)(6)	Periodic Reports	Semiannually, no later than 60 days after the end of each 6-month period. See § 63.1439(e)(6)(i) for the due date for this report.
§ 63.1439(e)(6)(v)(iii)	Quarterly reports for sources with excursions (upon request of the Administrator).	No later than 60 days after the end of each quarter.
§ 63.506(e)(7)(i)	Storage Vessels Notification of Inspection.	At least 30 days prior to the refilling of each storage vessel or the inspection of each storage vessel.

^a There may be two versions of this report due at different times; one for equipment subject to § 63.1434 and one for other emission points subject to this subpart.

^b There will be two versions of this report due at different times; one for equipment subject to § 63.1434 and one for other emission points subject to this subpart.



Federal Register

**Tuesday
June 1, 1999**

Part III

**Environmental
Protection Agency**

40 CFR Parts 9 and 63

**National Emission Standards for
Hazardous Air Pollutants for Source
Categories and for Mineral Wool
Production; Final Rule**

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 63

[FRL-6345-4]

RIN 2066-AE00

National Emission Standards for Hazardous Air Pollutants for Source Categories; National Emission Standards for Hazardous Air Pollutants for Mineral Wool Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action promulgates national emission standards for hazardous air pollutants (NESHAP) for new and existing sources in mineral wool production facilities. Hazardous air pollutants (HAPs) emitted by the facilities covered by this rule include carbonyl sulfide (COS), nine hazardous metals, formaldehyde, and phenol. Exposure to these HAPs may be associated with adverse carcinogenic, respiratory, nervous system, dermal, developmental, and/or reproductive health effects. The EPA estimates that the final rule will reduce nationwide emissions of HAPs from these facilities by 46 megagrams per year (Mg/yr) (51 tons per year (tpy)). In addition, emissions of particulate matter (PM) will be reduced by approximately 186 Mg/yr (205 tpy). This action also amends 40 CFR part 9 by updating the table of currently approved information collection control numbers to include the information requirements contained in this final rule.

These standards implement section 112(d) of the Clean Air Act (Act) by requiring all mineral wool production facilities that are major sources to meet hazardous air pollutant (HAP) emission standards reflecting the application of the maximum achievable control technology (MACT). The emissions reductions achieved by these standards, when combined with the emissions reductions achieved by other similar standards, will provide protection to the public and achieve a primary goal of the Act.

A supplement to the proposed rule was proposed in the *Federal Register* on February 12, 1999 (64 FR 7149). The EPA will give careful consideration to all comments on the supplemental proposal and will amend this final rule in a future action as appropriate.

EFFECTIVE DATE: June 1, 1999. See the **SUPPLEMENTARY INFORMATION** section concerning judicial review.

ADDRESSES: *Docket.* The docket for this rulemaking containing the information considered by the EPA in development of the final rule is Docket A-95-33. This docket is available for public inspection between 8 a.m. and 5:30 p.m., Monday through Friday, excluding Federal holidays, at the following address: U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center (6102), 401 M Street, SW, Washington, DC 20460; telephone number (202) 260-7548. The docket is located at the above address in Room M-1500, Waterside Mall (ground floor). A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Johnson, Minerals and Inorganic Chemicals Group, Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number (919) 541-5025; facsimile number (919) 541-5600; electronic mail address "johnson.mary@epamail.epa.gov".

SUPPLEMENTARY INFORMATION:

Regulated Entities

Categories and entities potentially regulated by this action include:

Category	Examples of regulated entities
Industry	Mineral wool production facilities (SIC 3296)
Federal government	None
State/local/tribal government	None

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility is regulated by this action, you should examine the applicability criteria in § 63.1177 of the final rule. If you have any questions regarding the applicability of this action to a particular entity, consult the appropriate regional representative:

Region I:

Janet Bowen, Office of Ecosystem Protection, U.S. EPA, Region I, CAP, JFK Federal Building, Boston, MA 02203, (617) 565-3595

Region II:

Kenneth Eng, Air Compliance Branch Chief, U.S. EPA, Region II, 290 Broadway, New York, NY 10007-1866, (212) 637-4000

Region III:

Bernard Turlinski, Air Enforcement Branch Chief, U.S. EPA, Region III, 3AT10, 841 Chestnut Building, Philadelphia, PA 19107, (215) 566-

2110

Region IV:

Lee Page, Air Enforcement Branch, U.S. EPA, Region IV, Atlanta Federal Center, 61 Forsyth Street, Atlanta, GA 30303-3104, (404) 562-9131

Region V:

George T. Czerniak, Jr., Air Enforcement Branch Chief, U.S. EPA, Region V, 5AE-26, 77 West Jackson Street, Chicago, IL 60604, (312) 353-2088

Region VI:

John R. Hepola, Air Enforcement Branch Chief, U.S. EPA, Region VI, 1445 Ross Avenue, Suite 1200, Dallas, TX 75202-2733, (214) 665-7220

Region VII:

Donald Toensing, Air Permitting and Compliance, Branch Chief, U.S. EPA, Region VII, 726 Minnesota Avenue, Kansas City, KS 66101, (913) 551-7446

Region VIII:

Douglas M. Skie, Air and Technical Operations, Branch Chief, U.S. EPA, Region VIII, 999 18th Street, Suite 500, Denver, CO 80202-2466, (303) 312-6432

Region IX:

Barbara Gross, Air Compliance Branch Chief, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744-1138

Region X:

Anita Frankel, Air and Radiation Branch Chief, U.S. EPA, Region X, AT-092, 1200 Sixth Avenue, Seattle, WA 98101, (206) 553-1757

Plain Language

The final rule is written in plain language. Plain language regulatory writing involves structuring the rule around questions the user may have. It takes the form of questions and answers and uses the words "I" and "you" to represent the owner or operator.

Judicial Review

The NESHAP for mineral wool production plants was proposed on May 8, 1997 (62 FR 25370). This action announces the EPA's final decisions on the rule. Under section 307(b)(1) of the Act, judicial review of the NESHAP is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this final rule. Under section 307(b)(2) of the Act, the requirements that are the subject of today's rule may not be challenged later in civil or criminal proceedings brought by the EPA to enforce these requirements.

Technology Transfer Network

In addition to being available in the docket, an electronic copy of today's notice is also available through the Technology Transfer Network (TTN). Following promulgation, a copy of the rule will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules (<http://www.epa.gov/ttn/oarpg/t3pfpr.html>). The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541-5384.

Outline

The information presented in this preamble is organized as follows:

- I. Statutory Authority
- II. Background and Public Participation
- III. Summary of Final Rule
 - A. Applicability
 - B. Standards
 - C. Compliance and Performance Test Provisions
 - D. Monitoring Requirements
 - E. Notification, Recordkeeping, and Reporting Requirements
- IV. Summary of Changes Since Proposal
 - A. Definitions
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 - A. General
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 - B. Executive Order 12866—Regulatory Planning and Review

- C. Executive Order 12875—Enhancing the Intergovernmental Partnership
- D. Executive Order 13084—Consultation and Coordination with Indian Tribal Governments
- E. Unfunded Mandates Reform Act
- F. Regulatory Flexibility
- G. Submission to Congress and the Comptroller General
- H. Paperwork Reduction Act
- I. Pollution Prevention Act
- J. National Technology Transfer and Advancement Act
- K. Executive Order 13045—Protection of Children From Environmental Health Risks and Safety Risks

I. Statutory Authority

The statutory authority for this rule is provided by sections 101, 112, 113, 114, 116, and 301 of the Act, as amended (42 U.S.C. 7401, 7412, 7413, 7414, 7416, and 7601). This rule is also subject to section 307(d) of the Act (42 U.S.C. 7407(d)).

II. Background and Public Participation

Section 112(d) of the Act directs the EPA to establish standards to control all major sources emitting HAPs. On July 16, 1992, the EPA published a list of major source categories, including "Mineral Wool Production," for which NESHAP are to be promulgated (57 FR 3156). The NESHAP for mineral wool production (40 CFR part 63, subpart DDD) was proposed in the *Federal Register* on May 8, 1997 (62 FR 25370). The public comment period ended on July 7, 1997. Industry representatives, regulatory authorities, environmental groups, and the general public had the opportunity to comment on the proposed standards and to provide additional information during the public comment period. Three comment letters were received. Comments were received from the association representing industry and from two

representatives of air pollution control equipment manufacturers. Today's final rule reflects the EPA's full consideration of the comments. A summary of the major public comments along with the EPA's responses are summarized in this preamble. A more detailed discussion of public comments and the EPA's responses are contained in the docket (Docket No. A-95-33; Item V-C-2).

III. Summary of Final Rule

A. Applicability

The final NESHAP applies to each existing, new, and reconstructed cupola and curing oven at a mineral wool production facility that is located at a plant site that is a major source of HAP emissions. Facilities that manufacture wool fiberglass are not subject to this rule but are subject to a separate NESHAP rulemaking for wool fiberglass manufacturing.

B. Standards

Emissions of PM are regulated for existing cupolas. For new and reconstructed cupolas, emissions of carbon monoxide (CO) are also regulated. Emissions of formaldehyde are regulated for existing, new, and reconstructed curing ovens. Particulate matter serves as a surrogate for metal HAPs and CO is a surrogate for COS. In addition to being a HAP itself, formaldehyde serves as a surrogate for phenol. A numerical emission limit for PM expressed in kilograms per megagram (kg/Mg) or pound per ton (lb/ton) of melt is promulgated in the final rule. For CO or formaldehyde, the owner or operator may comply with percent removal or numerical emission limits. The emission limits for existing sources and new sources are presented below.

SUMMARY OF EMISSION LIMITS FOR EXISTING SOURCES

Source	Pollutant	Emission limit
Cupola	PM	0.05 kg/Mg (0.10 lb/ton) of melt.
Curing oven	Formaldehyde	0.03 kg/Mg (0.06 lb/ton) of melt or 80 percent formaldehyde removal.

SUMMARY OF EMISSION LIMITS FOR NEW AND RECONSTRUCTED SOURCES

Source	Pollutant	Emission limit
Cupola	PM	0.05 kg/Mg (0.10 lb/ton) of melt.
	CO	0.05 kg/Mg (0.10 lb/ton) of melt or 99 percent CO removal.
Curing oven	Formaldehyde	0.03 kg/Mg (0.06 lb/ton) of melt or 80 percent formaldehyde removal.

The owner or operator must also comply with operating limits. Operating limits for cupolas are as follows:

- (1) Within one hour after the alarm on a bag leak detection system sounds, the owner or operator must begin, and complete in a timely manner, corrective

actions as specified in their operations, maintenance, and monitoring plan.

- (2) When the alarm on a bag leak detection system sounds for more than

five percent of the total operating time in a six-month reporting period, the owner or operator must develop and implement a written quality improvement plan (QIP) consistent with the compliance assurance monitoring requirements in § 64.8(b)-(d) of 40 CFR part 64 (62 FR 54900, October 22, 1997).

(3) For each new or reconstructed cupola, the owner or operator must maintain the operating temperature of the thermal incinerator such that the average operating temperature for each three-hour block period never falls below the average temperature established during the performance test.

The owner or operator must meet the following operating limits for curing ovens:

(1) The owner or operator must maintain the free-formaldehyde content of each resin lot and formaldehyde content of each binder formulation at or below the specification ranges of the resin and binder used during the performance test.

(2) The owner or operator must maintain the operating temperature of each thermal incinerator such that the average operating temperature for each three-hour block period never falls below the average temperature established during the performance test.

C. Compliance and Performance Test Provisions

For existing sources, compliance with the standards must be demonstrated no later than three years from the effective date of the final rule. An extension for a fourth year may be granted by the Administrator under section 112(i)(3)(B) of the Act if necessary for the installation of controls. For new and reconstructed sources, any control devices or monitoring equipment necessary to meet the standards must be installed. Performance testing must be completed and compliance with all requirements of the final rule must be demonstrated by the dates in § 63.7 of the general provisions in subpart A of 40 CFR part 63. On and after these dates, the owner or operator must comply with the standards. The standards will apply at all times except during periods of startup, shutdown, or malfunction.

A performance test is required to demonstrate initial compliance with the percent removal or numerical emissions limits for cupolas and curing ovens. The performance test must be conducted while operating at the maximum production rate and must consist of three test runs. All monitoring systems and equipment must be installed, operational, and properly calibrated prior to the performance tests. To

comply with the CO or formaldehyde emission limit for a cupola or curing oven controlled by a thermal incinerator, or the PM limit for a fabric filter-controlled cupola, measurements are made at the outlet of the control device. If the owner or operator elects to comply with the percent removal emission limit for CO or formaldehyde, measurements are required at the inlet and outlet of the control device.

The owner or operator is required to measure and record the amount of raw materials, excluding coke, charged into and melted in each cupola during each performance test run, determine the average hourly melt rate for each performance test run, and determine the arithmetic average of the average hourly melt rates associated with the three performance test runs. The average hourly melt rate of the three performance test runs is used to determine compliance.

The owner or operator must conduct the performance test for each curing oven while manufacturing the product that requires a binder formulation made with the resin containing the highest free-formaldehyde content specification range. During the performance test, the owner or operator must record the free-formaldehyde content specification range of the resin used and the formulation of the binder used, including formaldehyde content and binder specification.

During the performance test for each cupola that uses a thermal incinerator to comply with the emission limit for CO and each curing oven that uses a thermal incinerator to comply with the formaldehyde emission limit, the owner or operator is required to establish the average operating temperature of the incinerator. The owner or operator must continuously measure the operating temperature, determine the average temperatures in consecutive 15-minute blocks, determine the arithmetic average of the 15-minute block temperatures for each performance test run, and determine the arithmetic average of the average operating temperatures associated with the three performance test runs.

With prior approval from the Administrator, operating limits established for control devices or processes during the initial performance tests and used to monitor compliance may be expanded by conducting additional performance tests to demonstrate compliance at the new levels. Also, owners or operators of curing ovens may conduct short-term experimental production runs without conducting additional performance tests

with prior approval from the Administrator.

D. Monitoring Requirements

Each fabric filter used on a cupola must be equipped with a bag leak detection system having an audible alarm that automatically sounds when an increase in particulate emissions above a predetermined level is detected. The alarm must be located in an area where appropriate plant personnel will be able to hear it. Such a device serves as an indicator of the performance of the fabric filter and provides an indication of when maintenance of the fabric filter is needed. The rule requires that in response to an alarm, corrective actions be initiated within one hour, and completed in a timely manner, according to the operations, maintenance, and monitoring plan. The owner or operator is in violation of this operating limit upon a failure to begin corrective actions within one hour of the alarm.

When the alarm is activated for more than five percent of the total operating time during a six-month reporting period, the owner or operator must develop and implement a written QIP consistent with the compliance assurance monitoring requirements in § 64.8(b)-(d) of 40 CFR part 64 (62 FR 54900, October 22, 1997). Failure to develop and implement a written QIP that is consistent with the compliance assurance monitoring requirements is a violation of this operating limit.

Each owner or operator of an affected curing oven must monitor and record the free-formaldehyde content of each resin lot and the formulation of each batch of binder used, including formaldehyde content. Following the performance test, the owner or operator must maintain the free-formaldehyde content of each resin lot and the formaldehyde content of each binder formulation at or below the specification ranges of the resin and binder used during the performance test. If the free-formaldehyde content of a resin lot or the formaldehyde content of a binder formulation exceeds the performance test specification ranges, the owner or operator is in violation of this operating limit.

For each thermal incinerator used to control emissions from affected cupolas or curing ovens, the owner or operator must continuously measure the operating temperature of the incinerator. The owner or operator must determine the average temperatures in consecutive 15-minute blocks and then determine the arithmetic average of the 15-minute averages for each one-hour period. The average operating temperature of the

incinerator is based on the arithmetic average of the one-hour average temperatures for each consecutive three-hour period. Following the performance test, the owner or operator is required to maintain the operating temperature so that the average operating temperature for each three-hour block period never falls below the average temperature established during the performance test. If the average temperature in any three-hour block period falls below the average established during the performance test, the owner or operator is in violation of this operating limit. The owner or operator must operate and maintain each incinerator as specified in their operations, maintenance, and monitoring plan. Procedures for properly operating and maintaining an incinerator must include an annual inspection.

Under today's rule, the owner or operator may change control device and process operating parameter levels established during performance tests and used to monitor compliance. The owner or operator must notify the Administrator and upon approval, conduct additional performance tests at the proposed new control device or process operating parameter levels to verify compliance with the applicable emission limits.

E. Notification, Recordkeeping, and Reporting Requirements

Notification, recordkeeping, and reporting requirements for NESHP are included in the general provisions (40 CFR part 63, subpart A). The general provisions include requirements for: (1) Initial notification(s) of applicability, notification of performance test, and notification of compliance status; (2) a report of performance test results; (3) a startup, shutdown, and malfunction plan, including a semiannual report when a reportable event occurs and the steps in the plan were not followed; and (4) semiannual reports of deviations from established parameters. If deviations from established parameters are reported, the owner or operator must report quarterly until a request to return the reporting frequency to semiannual is approved.

Owners or operators of affected cupolas and curing ovens must submit an operations, maintenance, and monitoring plan as part of their application for a title V permit. The plan must include procedures for the proper operation and maintenance of processes and control devices used to comply with the emission limits, including an annual inspection of each thermal incinerator. The plan also must identify the process or control device parameters

to be monitored for compliance; the established operating levels or ranges for each process or control device; a monitoring schedule; the corrective actions to be taken when process or control device parameters deviate from the levels established during performance testing; and procedures for keeping records to document compliance.

In addition to requirements of the general provisions, the final rule specifies additional records to be kept by the owner or operator. The owner or operator is required to maintain records of the following, as applicable:

- (1) Cupola production (melt) rate;
- (2) bag leak detection system alarms, the date and time of the alarm, when corrective actions were initiated, the cause of the alarm, an explanation of the corrective actions taken, and when the cause of the alarm was corrected;
- (3) free-formaldehyde content of each resin lot and the binder formulation, including formaldehyde content, of each binder batch used in the manufacture of bonded products; and
- (4) incinerator operating temperature and results of incinerator inspections, including periods when the average temperature in any three-hour block period fell below the average temperature established during the performance test and periods when the inspection identified incinerator components in need of repair or maintenance, the date and time of the problem, when corrective actions were initiated, the cause of the problem, an explanation of the corrective actions taken, and when the cause of the problem was corrected.

The NESHP general provisions require that records be maintained for at least five years from the date of each record. The owner or operator must retain the records on site for at least two years but may retain the records off site the remaining three years. The records may be retained on microfilm, on microfiche, on a computer, on computer disks, or on magnetic tape disks. Reports may be made on paper or on labeled computer disks using commonly available and compatible computer software.

IV. Summary of Changes Since Proposal

Changes have been incorporated into the final NESHP for mineral wool production facilities in response to comments on the proposed rule, with the exception of the format change to plain language. A number of clarifications to the proposal language are reflected in the final rule as a result of this question and answer format. The

principal changes made since proposal are summarized below. Additional discussion of the changes and the rationale for these changes is presented in section VI of this preamble.

A. Definitions

In response to public comments, minor clarifying changes were made to the definition of *mineral wool*. Also, a definition for *new source*, that incorporates the May 8, 1997 date that the NESHP was proposed, was added to the list of terms used in the final rule.

B. Standards

The final rule incorporates some changes to the proposed rule regarding emission standards. Depending on available control and monitoring technologies for particular source categories, emission limits, as well as operating limits, are set forth as enforceable regulatory requirements. In addition to emission limits, operating limits are also included as part of the final rule regulating mineral wool production facilities. These operating limits were included in the proposed rule as monitoring requirements and have been moved into the sections containing the emission limits in the final rule. These operating limits specify the established requirements which are enforceable and will be used to determine compliance.

As a result of additional PM emissions data from fabric filter-controlled cupolas, the proposed PM emission limit of 0.03 kg/Mg (0.06 lb/ton) has been revised to 0.05 kg/Mg (0.10 lb/ton) in the final rule. The additional data considered in making this determination are for three cupolas controlled by fabric filters with identical parameters as those previously determined to be representative of the MACT floor for existing and new cupolas. An emissions limit of 0.05 kg/Mg (0.10 lb/ton) represents a level that can be achieved by the fabric filter-controlled cupola upon which the proposed PM emission limit was based, as well as by these three fabric filter-controlled cupolas which are also representative of the MACT floor.

C. Performance Test Provisions

A few changes were made to the performance test requirements in the proposed rule. Revisions were made to clarify the proposed requirements for performance testing by specifying in the final rule how to establish the average operating temperature of an incinerator. The proposed provision that would allow the owner or operator of curing ovens subject to the NESHP to conduct short-term experimental production

runs without conducting additional performance tests was revised. The final rule clarifies that the process modifications referred to in the proposed rule mean pollution prevention process modifications.

The proposed rule required the use of method 5 for determining the concentration of PM with a minimum performance test run time of two hours and a minimum sample volume of 2.5 dry standard cubic meters (dscm) (90 dry standard cubic feet (dscf)). The final rule specifies a minimum performance test run time of three hours and a minimum sample volume of 3.75 dscm (135 dscf). These revisions are the result of re-evaluation of the test method procedures in response to public comments regarding the level of the proposed emission limit for PM, and are to ensure that an adequate amount of PM is captured on the filter for analysis and subsequent compliance determination.

D. Monitoring Requirements

Several changes were made to the monitoring requirements in the proposed rule. The final rule does not include the proposed requirements to maintain the average hourly melt rate so that it does not exceed the average melt rate established during the performance test by more than 20 percent for more than five percent of the total operating time in each six-month reporting period, and to do a repeat performance test at the higher melt rate if the average hourly melt rate exceeds the average melt rate established during the performance test by more than 20 percent for more than five percent of the total operating time in a six-month reporting period. The EPA determined that these monitoring requirements are not necessary because compliance with the PM standards will be assessed through use of a bag leak detection system; compliance with the CO standards will be assessed through monitoring incinerator operating temperature; and compliance with the formaldehyde standards will be assessed through monitoring incinerator operating temperature, monitoring free-formaldehyde content of resin, and monitoring binder formulation. The average melt rate must still be determined during each performance test in order to assess compliance with the emissions standards. As a recordkeeping requirement, the final rule continues to require that records of cupola melt rate be maintained.

As proposed, each fabric filter used on a cupola must be equipped with a bag leak detection system having an audible alarm that automatically sounds

when an increase in particulate emissions above a predetermined level is detected. The final rule clarifies that each triboelectric bag leak detection system must be installed, operated, adjusted, and maintained according to the EPA's "Fabric Filter Bag Leak Detection Guidance" (EPA-454/R-98-015, September 1997) which is available on the TTN under Emission Measurement Center (EMC), Continuous Emission Monitoring. Other bag leak detection systems must be installed, operated, adjusted, and maintained according to the manufacturer's written specifications and recommendations. In response to public comments and to maintain consistency with sensitivity (range) specifications in other regulations, the final rule requires that the bag leak detection system be capable of detecting PM emissions at concentrations of 10 milligrams per actual cubic meter (0.0044 grains per actual cubic foot). To maintain consistency with bag leak detection system requirements in other regulations and to allow owners and operators flexibility to make necessary bag leak detection system adjustments, the final rule specifies that following initial adjustment, the owner or operator may adjust the range, averaging period, alarm set points, or alarm delay time as specified in the approved operations, maintenance, and monitoring plan. The final rule further specifies that in no event may the range be increased by more than 100 percent or decreased by more than 50 percent over a 365 day period unless a responsible official, as defined in § 63.2 of the general provisions in subpart A of 40 CFR part 63, certifies in writing to the Administrator that the fabric filter has been inspected and found to be in good operating condition. The final rule clarifies that the alarm must be located in an area where appropriate plant personnel will be able to hear it and that in response to the sounding of an alarm, the owner or operator must complete corrective actions in a timely manner.

Under the proposed rule, the owner or operator would monitor and record the free-formaldehyde content of each resin lot and the binder formulation, including the formaldehyde content of each binder batch, and would maintain the formaldehyde content of each binder formulation at or below the level established during the performance test. The final rule clarifies that the owner or operator must maintain the free-formaldehyde content of each resin lot and the formaldehyde content of each binder formulation at or below the specification ranges of the resin and

binder used during the performance test. The use of ranges in the final rule accommodates the fact that resins and binders are produced in accordance with specification ranges rather than levels as proposed.

As proposed, the owner or operator would obtain, at a minimum, valid three-hour block average incinerator operating temperatures for 75 percent of the operating hours per day for 90 percent of the operating days per six-month reporting period. This requirement is not included in the final rule in order to maintain consistency with the compliance assurance monitoring final rule (62 FR 54899, October 22, 1997), which was revised based on comments received on its proposal and now requires monitoring devices to be operational at all times that the process is operational. Revisions were also made to clarify the proposed requirements for monitoring incinerator operating temperature by specifying in the final rule how to determine the average operating temperature.

Under the proposed rule, the owner or operator could change a control device or process operating parameter level established during the performance test by conducting additional performance tests at the new parameter level. The final rule clarifies that the owner or operator must notify the Administrator of the desire to expand the range of a control device or process operating parameter level, and upon approval, conduct additional performance tests at the proposed new parameter levels before operating at these levels to verify compliance with the emission limits.

E. Notification, Recordkeeping, and Reporting Requirements

A few changes were made since proposal to the notification, recordkeeping, and reporting requirements. The final rule clarifies that notifications of performance tests must be submitted to the Administrator at least 60 days prior to the performance test. The final rule also clarifies what elements are required to be included in performance test reports. The proposed rule required an operations, maintenance, and monitoring plan for each affected source that would contain information on the proper operation and maintenance of control devices, the parameters to be monitored for compliance and their established operating levels, a monitoring schedule, corrective actions to be taken when parameters deviate from the levels established during performance testing, and procedures for keeping records to document compliance. The final rule

specifies some example corrective actions for bag leak detection system alarms that may be included in the operations, maintenance, and monitoring plan. Consistent with the general provisions requirements to operate and maintain air pollution control equipment in a manner consistent with good air pollution control practices, the final rule clarifies that the operations, maintenance, and monitoring plan procedures for properly operating and maintaining control devices must include, where applicable, an inspection of each incinerator at least once per year. The final rule also clarifies that records of when corrective actions were initiated and when the cause of the problem was corrected must be maintained.

V. Summary of Impacts

The impacts estimated to be attributable to the final rule are the same as those estimated to be attributable to the proposed rule. Nationwide emissions of metal HAPs from mineral wool production cupolas are estimated to be 1.0 Mg/yr (1.1 tpy) at the current level of control. Existing PM emissions are estimated to be 239 Mg/yr (263 tpy). Implementation of the final rule will reduce nationwide metal HAP and PM emissions from existing cupolas by 0.91 Mg/yr (1.0 tpy) and 186 Mg/yr (205 tpy), respectively. Formaldehyde and phenol emissions from existing curing ovens are estimated to be 54 Mg/yr (59 tpy) and 14 Mg/yr (16 tpy), respectively. Nationwide emissions of formaldehyde and phenol will be reduced by about 30 Mg/yr (34 tpy) and 14 Mg/yr (16 tpy), respectively, as a result of this final rule. Although the EPA does not anticipate any new cupolas or curing ovens within the next five years, installation of a new cupola with a 7.3 megagram per hour (8 ton per hour) capacity would result in estimated reductions of COS and CO emissions by 104 Mg/yr (114 tpy) and 1,256 Mg/yr (1,384 tpy), respectively, in addition to metal HAP and PM reductions.

Because this rule is based on the use of fabric filters and thermal incinerators, there are no water pollution impacts. Solid waste generated by fabric filters in the form of ash is disposed of by landfilling. With the addition of fabric filters to five cupolas, the amount of solid waste is expected to increase by about 350 Mg/yr (390 tpy) from the current level of 24,800 Mg/yr (27,300 tpy) nationwide. The rule is estimated to have no significant effect on energy consumption.

The total nationwide capital and annualized costs for existing cupolas under the final rule are estimated to be

\$1.5 million and \$608,900/yr, respectively. These costs represent the addition of fabric filters to five cupolas but do not include the monitoring costs of bag leak detection systems required on all affected cupolas. Capital and annualized costs for a bag leak detection system are estimated at \$9,100 and \$1,800/yr for each affected cupola, respectively.

The total nationwide capital cost of complying with the requirements for existing curing ovens is estimated to be \$795,800 with a nationwide annual cost of \$641,600. These costs result from the addition of thermal incinerators to two curing ovens.

Total nationwide capital costs for the standard are estimated at \$2.6 million and nationwide annual costs are estimated at \$1.4 million, including installation, operation, and maintenance of emission control and monitoring systems.

Under the final rule, market-level price increases are estimated to range from 0.5 percent to 2.1 percent, resulting in quantity adjustments of -0.59 percent and -1.71 percent, respectively. The decreases in quantity demanded may lead to the loss of approximately nine jobs. There is no indication that the costs associated with achieving the reductions required by the final rule will cause facility closure.

VI. Summary of Responses to Major Comments

The EPA proposed the NESHAP for the mineral wool production source category on May 8, 1997 (62 FR 25370). A 60-day comment period from May 8, 1997 to July 7, 1997, was provided to accept written comments from the public on the proposed rule.

The EPA received a total of three comment letters regarding the proposed NESHAP for mineral wool production. A copy of each comment letter is available for public inspection in the docket for the rulemaking (Docket No. A-95-33; see the ADDRESSES section of this document for information on inspecting the docket). The EPA has had follow-up discussions with commenters regarding specific issues initially raised in their written comments that were submitted to the EPA during the comment period. Copies of correspondence and other information exchanged between the EPA and the commenters during the post-comment period are available for public inspection in the docket for the rulemaking.

All of the comments received by the EPA were reviewed and carefully considered by the EPA. Changes to the rule were made where the EPA

determined it to be appropriate. A summary of responses to major comments received on the proposed rule is presented below. Additional discussion of the EPA's responses to public comments is presented in the document "Summary of Public Comments and Responses on Mineral Wool Production NESHAP" (docket item V-C-2).

A. General

Comment: One commenter stated that there have been some shutdowns in the industry that affect the information presented in the preamble to the proposed rule. Currently, there are 15 mineral wool production facilities located in eight states. Five of the 15 plants manufacture bonded products and contain a total of ten cupolas and five curing ovens. Ten active plants manufacture only nonbonded products, with a total of 21 cupolas. Thus, the total industry currently operates 31 cupolas and five curing ovens, rather than the 36 cupolas and six curing ovens reported by the EPA in the *Federal Register* document. The commenter further stated that six of the ten companies in the mineral wool production industry are small businesses, rather than seven of the ten companies being small businesses as stated in the EPA's *Federal Register* document.

Response: The EPA acknowledges the information regarding shutdowns and changes in the industry profile as noted by the commenter. The EPA believes, however, that temporary shutdown of production lines is not unusual in this industry because the manufacture of mineral wool products is order-driven, and that these lines could be restarted in the future. The EPA, therefore, has not made any changes to the estimated impacts resulting from the rule. When considering these changes in the industry profile, the technology representative of the best controlled cupolas and curing ovens remains fabric filters and thermal incinerators, respectively. Therefore, these changes do not affect the proposed MACT floors for cupolas and curing ovens. Regarding the number of small businesses within the source category, two separate sources of information obtained by the EPA indicate that the company in question has less than 750 employees. Thus, the EPA continues to believe that seven of the ten mineral wool manufacturing companies are small businesses. No revisions to the final rule are necessary as a result of these comments.

B. Definitions

Comment: One commenter suggested that the definition of "bonded product" be amended to read "Bonded product means mineral wool to which a hazardous air pollutant-based binder (e.g., phenol, formaldehyde) has been applied and cured."

Response: After consideration of this comment, the EPA has decided to leave the definition of "bonded product" as it is in the proposed rule to allow the broadest coverage of this term. Once binder has been applied to mineral wool, whether cured or not, hazardous air pollutants, which are the focus of the definition, have been introduced into the production process.

Comment: One commenter suggested that the definition of "mineral wool" be amended to read "Mineral wool means a fibrous glassy substance made from natural rock (such as basalt), recycled blast furnace slag, or a mixture of rock and slag; it may be used as a thermal or acoustical insulation material or in the manufacturing of other products to provide structural strength, sound absorbency, fire resistance, or other uses."

Response: After consideration of this comment, the EPA has decided to modify the definition of "mineral wool" by adding "or other required properties" rather than "or other uses" as suggested by the commenter. The EPA believes that this modification adequately expands the definition of "mineral wool" as the commenter requested, as well as provides more clarification than the commenter's suggested revision. The EPA does not believe it is necessary or technically correct to add "recycled" to the definition.

Comment: One commenter suggested that the definition of "cupola" be amended to read "Cupola means a melting system consisting of raw material bins, weighing and charging equipment, electrical power system, controls, a large water cooled metal vessel with water cooling system, combustion air fans, duct work, tuyeres and oxygen enrichment system with combustion air preheater, molten slag handling and spinning equipment, off gas duct work, fan and a structure to support and house the melting system. The cupola is charged with a mixture of fuel, rock and/or blast furnace slag and additives; as the fuel is burned, the charged mixture is heated to a molten state, flows from the metal vessel and is spun into mineral wool."

Response: After consideration of this comment, the EPA has decided to leave the definition of "cupola" as it is in the proposed rule to allow the broadest

coverage of this term. The EPA does not agree that all of the items in the commenter's suggested definition are part of a cupola. It is the EPA's intention to define "cupola" in general terms in order to cover all possible configurations. Some configurations may not include all of the items included in the commenter's suggested definition.

C. Selection of Emission Standards

Comment: One commenter strongly supported the subcategorization in the proposed rule of plants with and without bonded lines. The commenter further stated that it is within the EPA's authority under the Act to define appropriate subcategories and that the differences between plants with and without bonded lines are substantial and consistent with the types of differences that the EPA has used to subcategorize other source categories.

Response: No changes in the final rule are necessary as a result of this comment.

Comment: One commenter supported the EPA's proposed MACT floor for new and existing sources.

Response: No changes in the final rule are necessary as a result of this comment.

Comment: One commenter strongly supported the EPA's proposed decision not to require an incinerator as above the MACT floor control for existing cupolas. Reasons cited by the commenter are that a cupola incinerator requirement would be unduly costly and economically devastating to an industry that produces an environmentally beneficial product using a waste product that would otherwise be landfilled, that a cupola incinerator requirement would not provide any significant health benefits, and that a cupola incinerator may even have negative net health impacts due to secondary emissions of nitrogen oxides (NO_x) and sulfur dioxide (SO₂).

Response: No changes in the final rule are necessary as a result of this comment.

Comment: One commenter stated that the EPA should require control of CO and COS emissions from existing cupolas. The commenter further stated that thermal oxidizers provide excellent control of cupola CO/COS emissions and that the EPA incorrectly concluded that the costs and ancillary emissions from thermal oxidizers are too high for the EPA to require their use on existing cupolas. The commenter stated that in fact, thermal oxidizer costs have been declining in real terms, and NO_x emissions from thermal oxidizers currently are guaranteed at very low

levels. Further, the commenter believes that the EPA's subcategorization of mineral wool production facilities based on the production of bonded products, and leading to MACT floors for cupola CO/COS emissions of no control, is inappropriate. Where subcategorization does not result in distinct emission limits or floors, the commenter believes that regulatory simplicity dictates that it should be avoided. The commenter also believes that the MACT floor for existing cupolas does call for thermal oxidizer-based limits given that the MACT floor level of control would be the use of thermal incineration or its equivalent in the absence of subcategorization.

Response: The EPA disagrees that subcategorization is either prohibited by the statute or unwise as a policy matter. While regulatory simplicity may be a consideration in how the EPA exercises its discretion, the statute does not dictate that this consideration supersede other legitimate considerations in establishing subcategories. As the EPA has noted in several rulemakings, the Act provides the EPA with substantial discretion to consider various factors when determining whether subcategorization is appropriate (see, e.g., 59 FR 29196-29200, June 6, 1994, **Federal Register** notice on determination of MACT floor for medium storage vessels at facilities subject to the hazardous organic NESHAP which indicates that the EPA may consider whether production processes used at different sources are sufficiently distinct to justify the creation of a subcategory).

In considering whether it is appropriate to subcategorize in this rule, the EPA continues to believe the basis for subcategorizing stated in the preamble to the proposed rule is valid (see 62 FR 25376-25377, May 8, 1997). Another commenter supported the EPA's view that it has substantial discretion to subcategorize and agreed with the EPA's decision to subcategorize in the proposed rule. Further, the EPA has taken several steps to accomplish the goal of regulatory simplicity in this rulemaking. For example, the EPA has emphasized readability in the plain language format of the final rule. In addition, the EPA has promulgated the cupola standards in one section, rather than in separate sections for each subcategory. Therefore, the EPA believes it has accomplished the goal of making the regulations as simple as possible while at the same time recognizing appropriate distinctions between the different types of facilities in the industry through subcategorization.

Regarding the commenter's statement about thermal oxidizer costs and ancillary emissions, the commenter did not provide any cost or NO_x emissions data to substantiate the assertion that a requirement to install thermal oxidizers on existing cupolas would be cost effective. The EPA continues to believe that the data in the record does not indicate that CO/COS controls are cost effective or otherwise appropriate for either subcategory. The EPA has not made any changes to the rule as a result of these comments.

Comment: One commenter supported the EPA's proposing thermal incineration as the MACT floor for both new and existing curing ovens and new cupolas. The commenter further stated that significantly higher control efficiencies can be achieved beyond the 80 percent discussed in the proposed rule with the use of catalytic incineration or oxidation and, in fact, volatile organic compound (VOC) reductions in excess of 98 percent can be achieved. According to the commenter, catalytic oxidation is a cost-effective control option which has been used for many years in diverse applications and the commenter believes that significant further VOC reductions can be cost-effectively achieved by using the technology to also control the emissions from existing cupolas. The commenter stated that catalytic incineration minimizes the temperature required for the destruction of VOCs and consequently, minimizes the production of NO_x and sulfur oxide (SO_x) emissions from the combustion of sulfur bearing fuels. Another commenter stated that thermal oxidizers or equivalent controls can easily provide the proposed 80 percent reduction in curing oven formaldehyde emissions and suggested that the EPA mention the capabilities of regenerative thermal oxidizers to reduce fuel costs in the preamble to the final rule.

Response: Neither commenter provided costs or data indicating destruction efficiency of catalytic oxidizers or regenerative thermal oxidizers on a mineral wool cupola or curing oven. In addition, catalytic oxidizers and regenerative thermal oxidizers are not demonstrated in the mineral wool production industry. The proposed 80 percent reduction in curing oven formaldehyde emissions is based upon test data from a recuperative thermal incinerator representative of MACT for curing ovens in the mineral wool production industry. The EPA has not made any changes to the rule as a result of these comments.

Comment: One commenter recommended that the proposed PM

emission standard for existing cupolas be increased significantly from the proposed limit of 0.06 lb/ton of melt to 0.9 lb/ton to ensure that cupolas equipped with a fabric filter (also known as a baghouse) can comply with the standard. The commenter believes that emissions tests upon which the EPA based the proposed PM standard involved invalid tests that resulted in unrepresentative PM emission levels. According to the commenter, the baghouse had defects that resulted in the improper influx of air into the outlet stream, thereby diluting the observed PM emission level. The commenter stated that approximately 70–90 percent more air was emitted at the outlet than entered the intake and that this defect prevents the test results from being used to establish emission levels representative of a properly functioning baghouse. The commenter also noted that the baghouse differential pressures varied widely during the emissions tests, which could indicate a number of problems with the baghouse including air leaks or problems with bag cleaning.

Response: The commenter's request to increase the proposed PM emission standard to ensure that cupolas equipped with fabric filters can comply with the standard indicates a misunderstanding of the nature of section 112 of the Act, as well as the MACT determination process, which requires that emission standards for existing sources be set not less stringent than the level achieved by the average of the best performing five sources for categories or subcategories with fewer than 30 sources. This determination is made assuming that some sources will need to install new emission controls or improve performance of their existing controls to meet a standard that is not less stringent than the MACT floor.

Regarding the commenter's statement that baghouse defects resulted in improper influx of air into the outlet stream and dilution of the PM emission level, dilution air is of no significance given that the proposed PM emission standard is in pounds of PM per ton of melt. Emissions data from the baghouse-controlled cupola indicates a PM removal efficiency of about 99.8 percent, and therefore, casts doubt upon the commenter's assertion that the data are not representative of a properly functioning baghouse. In addition, EPA believes that if the commenter's statement about baghouse operational problems during the emissions testing upon which the proposed PM standard is based accurately assessed the situation, then the emission test results would be biased high and the emission standard would, therefore, be biased

high. This certainly does not support raising the limit to an even higher level. When provided the opportunity to review the emissions test report, the facility did not have any comments regarding baghouse defects resulting in the improper influx of air into the outlet stream and diluted PM emission levels. Furthermore, when the EPA discussed the proposed PM emission standard of 0.06 lb/ton with industry representatives and State and local environmental agency representatives prior to proposal, no concerns were expressed. In addition, the commenter provided no basis for a PM emission standard of 0.9 lb/ton of melt. Based on the above discussion, the EPA has not made any changes to the proposed PM emission standard as a result of these comments.

During a follow-up meeting with the commenter (see Docket Item IV-E-1), held at the commenter's request to provide an opportunity to present to the EPA clarification of the comments and issues of concern regarding the proposed emission standards, the commenter provided the EPA with additional PM emissions data from fabric filter-controlled cupolas. These data are from the Emission Factor Documentation for AP-42 Section 8.16, Mineral Wool Manufacturing. These PM data are from three fabric filter-controlled cupolas at the same facility as the fabric filter-controlled cupola upon which the EPA based its proposed PM emission standard. Because the parameters for these three fabric filters are the same as those parameters previously determined to be representative of the MACT floor for existing and new sources and because these cupolas are at the same facility as the cupola tested by the EPA and would therefore experience similar operating and maintenance practices, the EPA has decided that the PM data from these three fabric filter-controlled cupolas should be considered in development of the final rule. When data from these three additional fabric filter-controlled cupolas are included in the data base, PM data representative of the MACT floor for cupolas now consists of the following: 0.04 lb/ton, 0.05 lb/ton, 0.065 lb/ton, and 0.099 lb/ton. Based on these data, the EPA has determined that a PM emission limit of 0.10 lb/ton represents a level that can be achieved by all four cupolas controlled with well designed, operated, and maintained fabric filters, and is representative of the MACT floor in the final rule.

Comment: One commenter stated that emissions data from the second facility in the EPA test program indicate that PM emissions from a cupola also

controlled with a baghouse averaged 0.6 lb/ton of melt, an order of magnitude higher than the proposed PM standard of 0.06 lb/ton. Thus, emissions from this facility would not meet the EPA's proposed PM emission standard, even though the facility is equipped with the control technology that represents the MACT floor. The commenter acknowledged that the PM emissions data from this facility includes emissions from both the cupola and fiber collection process but stated that the facility is nevertheless required to meet the emission limit set by the EPA. The commenter further stated that at least one other mineral wool company vents the fiber collection process as well as the cupola through a baghouse and it would be infeasible for this facility to meet the proposed PM standard. Further, it would be very expensive and counter-productive with respect to emission levels to force the facility to rearrange its baghouse operation to exclude the fiber collection process air. Because it is possible that the collection chamber may require additional PM controls in the future as a result, for example, of the EPA's recently proposed PM_{2.5} ambient standard, an additional reason to set the cupola PM emission standard at a higher level is therefore to permit the facility to meet the proposed PM emission standard with its current configuration, and to provide other companies additional flexibility to reduce PM emissions in the future.

Response: The EPA cannot foresee or accommodate all configurations of processes ducted to a common control device. Section 63.7 of the general provisions in subpart A of 40 CFR part 63 allows the use of alternative test methods and procedures based on review and approval by the EPA of relevant supporting information. The supporting data and information are submitted as part of the site specific test plan and are evaluated for approval by the EPA on a case-by-case basis. Because all facilities have the opportunity to request alternative methods and procedures for testing and demonstrating compliance with the cupola emission standards, the EPA again believes the proposed PM emission standard should not be raised to consider emissions not regulated by the MACT standards, and has therefore, not made any changes to the rule as a result of these comments.

Comment: One commenter stated that other mineral wool manufacturing companies indicated that a 0.06 lb/ton PM standard would not be feasible with their existing installed baghouse controls. Earlier data collected by the EPA as part of a screening study not

associated with the MACT standards development process found controlled particulate emissions from industry tests of six mineral wool cupolas equipped with baghouses ranged from 0.0044 to 0.70 lb/ton, while the average controlled emission level was 0.42 lb/ton. The commenter further stated that because most if not all mineral wool facilities will be unable to meet the proposed 0.06 lb/ton of melt PM standard on a consistent basis, the proposed standard is inconsistent with the intended objective of basing the standard on the existing baghouse technology installed by many facilities that represent the MACT floor.

Response: The EPA reviewed the 1980 document "Source Category Survey: Mineral Wool Manufacturing Industry" which contains the earlier data referred to by the commenter. Upon review, it was noted that only one facility with a cupola controlled by a baghouse as referenced in the 1980 report is still operational and it is not apparent from the study what the PM emissions associated with the cupola at this facility were. It is apparent, however, from an information collection request response submitted by this facility to the EPA in 1993, that new baghouses were installed in 1986 and 1987 for each of their two operating cupolas. Thus, the test data supplied by this facility for the 1980 study is not relevant. The commenter did not provide any data on baghouse design, maintenance, or operation characteristics to show that the facilities tabulated in the 1980 study were representative of MACT.

The commenter's statement that the proposed standard is inconsistent with the intended objective of basing the standard on the existing baghouse technology installed by many facilities that represent the MACT floor mischaracterizes the intent of the EPA and of section 112 of the Act. As previously stated, the statute requires the level of control to be not less stringent than the average level achieved by the best performing five sources, rather than be based on what all facilities can achieve with their current control and maintenance practices. The Act, through requiring all sources to meet a standard that is not less stringent than the MACT floor, assumes that existing controls may need to be replaced or upgraded at some sources. In many cases, bags within the fabric filter may need to be replaced and a more rigorous operation and maintenance plan may be necessary to meet the MACT. Accordingly, the EPA has decided that no changes in the final rule are necessary as a result of these comments.

Comment: One commenter recommended that the proposed formaldehyde emission standard for existing curing ovens be increased significantly from 0.06 pounds of formaldehyde per ton of melt (lb/ton) to 0.4 lb/ton because the commenter has concerns that the proposed standard may not be consistently achieved by an incinerator on the curing oven. The commenter stated that for example, the EPA's data from one tested facility (Facility B) showed that formaldehyde emissions from a curing oven equipped with an incinerator were 0.4 lb/ton, which is almost an order of magnitude above the proposed formaldehyde standard. The commenter acknowledged that the EPA's background documentation explains that only a portion of Facility B's curing oven exhaust passes through the high temperature incinerator but nevertheless, the input formaldehyde concentration into Facility B's curing oven incinerator was still over six times higher (1.3 lb/ton) than the low measured formaldehyde input at the facility upon which the proposed emission standard is based (0.2 lb/ton) (Facility A). The commenter stated that because the Facility A input level was abnormally low, the low output after incineration may also not be representative of other curing ovens. The commenter further stated that assuming Facility B's curing oven incinerator is the least efficient of the three curing oven incinerators existing in the industry, Facility B would be the median of the 5 curing ovens remaining in the industry. Thus, the commenter concluded that the MACT floor should be set at the emission limit corresponding to Facility B's curing oven incinerator.

Response: While the commenter characterizes the input formaldehyde concentration into Facility A's curing oven incinerator as strikingly low relative to the input formaldehyde concentration into Facility B's curing oven incinerator, the commenter did not submit data to indicate that the emissions measured for Facility A's curing oven incinerator are in error. The EPA recognized the potential variability in input formaldehyde, and for this reason proposed an alternative emission standard, also based on Facility A, requiring reduction of uncontrolled formaldehyde emissions by at least 80 percent. Regarding the commenter's concern that the proposed standards may not be consistently achieved by an incinerator, another commenter indicated that thermal oxidizers or equivalent controls can easily provide

the proposed 80 percent reduction in curing oven formaldehyde emissions. Furthermore, in the preamble to the proposed national emission standards for hazardous air pollutants for wool fiberglass manufacturing (62 FR 15228), the EPA stated that emission test measurements demonstrate that a thermal incinerator installed at these facilities is at least 99 percent effective in the removal of formaldehyde and phenol from curing ovens. Additionally, under the relevant emission standard for Facility B, 80 percent removal would translate into a limit of 0.26 lb/ton of melt, not 0.4 lb/ton of melt as proposed by the commenter.

Originally, Facility A's curing oven incinerator was selected as being representative of the MACT floor for existing sources and Facility B's curing oven incinerator was selected as being representative of MACT for new sources. These determinations were based on incinerator operating temperatures and gas residence times. After emissions testing was completed, the EPA decided to discount the data from Facility B because the curing oven incinerator was not operating properly as evidenced by a low formaldehyde removal efficiency of about 69 percent. Also, discussions with Facility B personnel revealed that gas flows within the curing oven were not within design parameters during the emissions test. Based on the above information, the EPA determined that Facility A's curing oven incinerator represented MACT for existing and new sources. Accordingly, other facilities with curing ovens, including Facility B, will be required to install new incinerators, or replace or modify their existing incinerators, as necessary, to meet the curing oven formaldehyde emission standards. After consideration of these comments, the EPA has decided to leave the formaldehyde emissions standards at 0.06 lb/ton of melt and 80 percent reduction of uncontrolled formaldehyde as in the proposed rule.

Comment: One commenter recommended that the EPA include an emission limit for COS of 0.05 pounds of COS per ton of melt (lb/ton) as an alternative to proposed emission standards for new cupolas of 0.10 pounds of CO per ton of melt (lb/ton) or 99 percent CO removal. The commenter stated that this alternative emission limit would give new sources in the future the flexibility to explore alternative methods to reduce COS through process modifications or other approaches. The commenter further stated that while they are not aware of any feasible process modifications that can significantly reduce COS at this

time, it is possible that alternative designs or processes that reduce COS emissions may be developed in the future that could be feasible for a new plant. The commenter believes that because the relationship between CO and COS involves some fluctuation and uncertainty, a direct COS alternative would be helpful to encourage exploration of such alternative means of compliance in any future new mineral wool plants.

Response: During development of the cupola emission standards, the EPA considered including an emission standard for COS for plants that choose to use process modifications, rather than thermal incineration, as a means of reducing COS emissions from new cupolas. When the EPA discussed this option with industry representatives, they considered this approach and strongly indicated, as the commenter does, that there are no feasible process modifications capable of reducing COS emissions to the level contemplated for a standard. In addition, the commenter provided no basis for a COS emission standard of 0.05 lb/ton of melt. Accordingly, the EPA has not made any changes to the rule as a result of this comment.

D. Monitoring

Comment: One commenter expressed concern that the monitoring equipment for baghouses required to meet the proposed PM standard is overly sensitive, would be unduly costly, and would trigger false alarms. The commenter recommended revising the bag leak detection system specifications from 1 milligram per cubic meter (mg/m³) to 10 mg/m³ in order to be consistent with other MACT standards, such as the secondary lead standard where the minimum detection capability of the bag leak detection system was revised from 1 to 10 mg/m³.

Response: After consideration of this comment, the EPA has decided to modify the required minimum detection capability for bag leak detection systems to 10 mg/m³ (0.0044 gr/ft³). This change does not alter the intended function of the bag leak detector, which is to detect broken bags or other defects in baghouses, and is consistent with the specification for sensitivity in other EPA standards.

Comment: One commenter suggested that the EPA allow the use of opacity monitors for bag leak detection because these monitors comply with Performance Specification 1 of Appendix B of 40 CFR part 60, and have been used for many years on electric arc furnace baghouses where the opacity limit is set at 3 percent.

Response: The commenter did not submit data to prove that opacity monitors are as sensitive as bag leak detection systems or can meet their minimum detection capability specification. The facts that opacity monitors comply with Performance Specification 1 of Appendix B of 40 CFR part 60 and that opacity monitors have been used on electric arc furnace baghouses are no indication that opacity monitors are suitable for use on cupola baghouses. The EPA continues to believe that a bag leak detection system will provide the best indication of cupola baghouse performance at the low PM levels characteristic of these sources. The EPA has not made any changes to the rule as a result of this comment.

E. Recordkeeping and Reporting

Comment: One commenter stated that although they agree with the need for startup, shutdown, and malfunction plans, the proposed rule does not clearly provide that emissions may temporarily exceed the emission limits during startup, shutdown, or malfunctions. The commenter recommended that the proposed rule should therefore specify that emission limits may be temporarily exceeded during startup, shutdown, or malfunctions without violating the standard provided the company is taking appropriate actions consistent with its startup, shutdown, and malfunction plan. The commenter further recommended that the EPA should provide some flexibility in the rule for unexpected developments and upsets that are difficult to predict and control in the mineral wool industry. The commenter stated that there is no practical or legal reason why a single perceived deviation from a defined operating range should be deemed to be out of compliance, but rather, some margin of error should be permitted in the form of one or two allowable excursions per month.

Response: Section 63.6(f) of the general provisions in subpart A of 40 CFR part 63 provides that nonopacity emission standards shall apply at all times except during periods of startup, shutdown, and malfunction. The situation the commenter describes regarding unexpected developments and upsets are covered under the definition of a malfunction in the general provisions provided the failures are not caused in part by poor maintenance or careless operation. The EPA, therefore, does not believe that an additional provision in the form of one or two allowable excursions per month is warranted. The EPA has specified in the

final rule, however, that the owner or operator must comply with the standards at all times except during periods of startup, shutdown, or malfunction.

VII. Administrative Requirements

A. Docket

The docket is intended to be an organized file of the administrative records compiled by the EPA. The docket is a dynamic file because information is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the docket will contain the record in case of judicial review. (See section 307(d)(7)(A) of the Act.) The location of the docket, which includes all public comments received on the proposed rule, is in the ADDRESSES section at the beginning of this preamble.

B. Executive Order 12866—Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

- (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
- (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or
- (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this action is not a "significant regulatory action" under the terms of the Executive Order and is therefore not subject to OMB review.

C. Executive Order 12875—Enhancing the Intergovernmental Partnership

Under Executive Order 12875, the EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or the EPA consults with those governments. If the EPA complies by consulting, Executive Order 12875 requires the EPA to provide to the OMB a description of the extent of the EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires the EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on State, local or tribal governments, because they do not own or operate any sources that would be subject to this rule. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

D. Executive Order 13084—Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, the EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or the EPA consults with those governments. If the EPA complies by consulting, Executive Order 13084 requires the EPA to provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of the EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires the EPA to

develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. No affected facilities are owned or operated by Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

E. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires the EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows the EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before the EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of \$100

million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. The EPA projects that annual economic impacts would be far less than \$100 million. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, the EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments because it does not impose any enforceable duties on small governments; such governments own or operate no sources subject to the rule and therefore would not be required to purchase control systems to meet the requirements of the rule.

F. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. The EPA has determined that seven of the ten firms that potentially would be subject to the final rule are small firms. The EPA has met with all of these small firms and their trade association. They have been fully involved in this rulemaking and their concerns and comments have been considered in the development of this rule. Also, a representative of the EPA's Office of the Small Business Ombudsman participated in the development of these standards as a work group member to ensure that the requirements of the standards were examined for potential adverse economic impacts and those impacts were mitigated to the extent feasible while still achieving the rule's environmental objectives.

Five of the seven small firms would incur emission control costs that are less than 0.1 percent of sales; one firm would incur control costs estimated to be 2.4 percent of the firm's sales; and another firm would incur control costs believed to be in excess of 3 percent. (See Docket Item II-A-16 for a discussion of this analysis.) Thus, this rule affects only a small number of small businesses. Further, most of the small businesses impacted by this rule will experience minimal increases in costs. Only two small businesses are projected to incur costs exceeding 0.1 percent of sales.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective June 1, 1999.

H. Paperwork Reduction Act

The OMB has approved the information collection requirements contained in this rule under the provisions of PRA, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060-0362.

The information collection requirements include the notification, recordkeeping, and reporting requirements of the NESHAP general provisions, authorized under section 114 of the Act, which are mandatory for all owners and operators subject to national emission standards. All information submitted to the EPA for which a claim of confidentiality is made is safeguarded according to EPA policies in 40 CFR part 2, subpart B. This rule does not require any notifications or reports beyond those required by the general provisions. Subpart DDD does require additional records of specific information needed to determine compliance with the rule. These include records of: (1) Cupola production (melt) rate; (2) all bag leak detection system alarms, the date and time of the alarm, when corrective actions were initiated, the cause of the alarm, an explanation of the corrective actions taken, and when the cause of the alarm was corrected; (3) the free-formaldehyde content of each resin lot and the binder formulation, including formaldehyde content, of each binder batch used in the manufacture of bonded products; and (4) incinerator operating temperature, including all periods when the average temperature in any three-hour block period fell below the average temperature established during the performance test, and the results of the annual inspection, including any problems discovered during the inspection, the date and time of the

problem, when corrective actions were initiated, the cause of the problem, an explanation of the corrective actions taken, and when the cause of the problem was corrected. Each of these information requirements is needed to determine compliance with the standards.

The annual public reporting and recordkeeping burden to industry for this collection is estimated to be 6,107 labor hours per year at an annual cost of \$196,206. This estimate includes a one-time performance test and report (with repeat tests where needed); one-time preparation of a startup, shutdown, and malfunction plan with semiannual reports of any event in which the procedures were not followed; preparation of an operations, maintenance, and monitoring plan; semiannual excess emissions reports; notifications; and recordkeeping. The total capital cost associated with the monitoring requirements is estimated to be \$309,400. This estimate includes the capital and startup costs associated with installation of a bag leak detection system for each affected cupola. The annualized cost of that capital is \$44,059 per year, and the operation and maintenance of the monitoring equipment is estimated to be \$17,000 per year.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15. In compliance with the Paperwork Reduction Act (PRA), the EPA is amending the table in 40 CFR part 9 of currently approved information collection request (ICR) control numbers issued by the OMB for various regulations.

This amendment updates the table to accurately display those information requirements contained in this final rule. The EPA will continue to present OMB control numbers in a consolidated table format to be codified in 40 CFR part 9 of the EPA's regulations, and in each Code of Federal Regulations volume containing EPA regulations. The table lists the section numbers with reporting and recordkeeping requirements, and the current OMB control numbers. This display of the OMB control number and its subsequent codification in the CFR satisfy the requirements of the PRA (44 U.S.C. 3501 *et seq.*) and OMB's implementing regulations at 5 CFR part 1320.

The ICR was previously subject to public notice and comment prior to OMB approval. As a result, the EPA finds there is "good cause" under section 553(b)(3)(B) of the Administrative Procedures Act (5 U.S.C. 553(b)(3)(B)) to amend this table without prior notice and comment. Due to the technical nature of the table, further notice and comment would be unnecessary. For the same reasons, the EPA also finds that there is good cause under 5 U.S.C. 553(d)(3).

I. Pollution Prevention Act

The Pollution Prevention Act of 1990 states that pollution should be prevented or reduced at the source whenever feasible. During the development of these standards, the EPA explored opportunities to eliminate or reduce emissions through the application of new processes or work practices. By reducing or eliminating the formaldehyde and phenol in binder formulations, HAPs from the curing process would be reduced or eliminated without the use of air pollution control equipment. Alternative binders have been investigated by various mineral wool producers. Acceptable alternatives have been difficult to identify due to the higher costs of the potential alternative binders; the problems associated with requalification of altered products to meet required product specifications; the production process changes necessitated by the use of modified binders; and the concerns regarding potential toxicity of new binder ingredients. Thus, at this time an acceptable alternative binder has not been commercially demonstrated.

J. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA), Pub. L. 104-113 (March 7, 1996), directs the EPA to use voluntary consensus standards in

regulatory and procurement activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (such as materials specifications, test methods, sampling procedures, and business practices) which are developed or adopted by voluntary consensus standard bodies. Where available and potentially applicable voluntary consensus standards are not used by EPA, the Act requires the Agency to provide Congress, through the OMB, an explanation for not using such standards. This section summarizes the EPA's response to the requirements of the NTTAA for the analytical test methods promulgated as part of this final rule.

Consistent with the NTTAA, the EPA conducted searches to identify voluntary consensus standards for the EPA's emissions sampling and analysis reference methods and industry recommended materials analysis procedures cited in this rule. Candidate voluntary consensus standards for materials analysis were identified for free-formaldehyde content. Consensus comments provided by industry experts were that the candidate standards did not meet industry materials analysis requirements. Therefore, EPA has determined these voluntary consensus standard are impractical for the mineral wool production NESHAP. The EPA, in consultation with the North American Insulation Manufacturers Association (NAIMA), has formulated an industry-specific materials analysis, consensus standard for free-formaldehyde content which is promulgated in this rule.

The EPA search to identify voluntary consensus standards for the EPA's emissions sampling and analysis reference methods cited in this rule identified 17 voluntary consensus standards that appeared to have possible use in lieu of EPA standard reference methods. However, after reviewing available standards, EPA determined that 12 of the candidate consensus standards identified for measuring emissions of the HAPs or surrogates subject to emission standards in the rule would not be practical due to lack of equivalency, documentation, validation data and other important technical and policy considerations. Five of the remaining candidate consensus standards are new standards under development that EPA plans to follow, review and consider adopting at a later date. This rule requires standard EPA emission test methods known to the industry and States. Approved alternative methods also may be used with prior EPA approval.

K. Executive Order 13045—Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns the environmental health or safety risk that the EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the EPA must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the EPA.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Order has the potential to influence the regulation. This final rule is not subject to Executive Order 13045 because it is not an economically significant regulatory action as defined by Executive Order 12866, and it is based on technology performance and not on health or safety risks.

List of Subjects

40 CFR Part 9

Environmental protection, Recordkeeping and reporting requirements.

40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Mineral wool production, Recordkeeping and reporting requirements.

Dated: May 13, 1999.

Carol M. Browner,
Administrator.

For the reasons set out in the preamble, parts 9 and 63 of title 40, chapter I of the Code of Federal Regulations are amended as follows:

PART 9—OMB APPROVALS UNDER THE PAPERWORK REDUCTION ACT

1. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 135 *et seq.*, 136-136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601-2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.*, 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345(d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971-1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g-1, 300g-2, 300g-3, 300g-4, 300g-5, 300g-6, 300j-1, 300j-2, 300j-3, 300j-4, 300j-9, 1857 *et seq.*

6901-6992k, 7401-7671q, 7542, 9601-9657, 11023, 11048.

2. Section 9.1 is amended by adding a new entry in numerical order to the table under the indicated heading to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

40 CFR citation	OMB control No.
National Emission Standards for Hazardous Air Pollutants for Source Categories ³	
63.1178-63.1194	2060-0362

³ The ICRs referenced in this section of the table encompass the applicable general provisions contained in 40 CFR part 63, subpart A, which are not independent information collection requirements.

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

3. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

4. Part 63 is amended by adding subpart DDD to read as follows:

Subpart DDD—National Emission Standards for Hazardous Air Pollutants for Mineral Wool Production

Sec.

- 63.1175 What is the purpose of this subpart?
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Standards

- 63.1178 For cupolas, what standards must I meet?
 63.1179 For curing ovens, what standards must I meet?
 63.1180 When must I meet these standards?

Compliance With Standards

- 63.1181 How do I comply with the particulate matter standards for existing, new, and reconstructed cupolas?
 63.1182 How do I comply with the carbon monoxide standards for new and reconstructed cupolas?
 63.1183 How do I comply with the formaldehyde standards for existing, new, and reconstructed curing ovens?

Additional Monitoring Information

- 63.1184 What do I need to know about the design specifications, installation, and operation of a bag leak detection system?
 63.1185 How do I establish the average operating temperature of an incinerator?
 63.1186 How may I change the compliance levels of monitored parameters?
 63.1187 What do I need to know about operations, maintenance, and monitoring plans?

Performance Tests and Methods

- 63.1188 What performance test requirements must I meet?
 63.1189 What test methods do I use?
 63.1190 How do I determine compliance?

Notification, Recordkeeping, and Reporting

- 63.1191 What notifications must I submit?
 63.1192 What recordkeeping requirements must I meet?
 63.1193 What reports must I submit?

Other Requirements and Information

- 63.1194 Which general provisions apply?
 63.1195 Who enforces this subpart?
 63.1196 What definitions should I be aware of?
 63.1197-63.1199 [Reserved]
 Table 1 to Subpart DDD of Part 63—Applicability of General Provisions (40 CFR Part 63, Subpart A) to Subpart DDD of Part 63.
 Appendix A to Subpart DDD of Part 63—Free Formaldehyde Analysis of Insulation Resins by the Hydroxylamine Hydrochloride Method.

Subpart DDD—National Emission Standards for Hazardous Air Pollutants for Mineral Wool Production

§ 63.1175 What is the purpose of this subpart?

This subpart establishes national emission standards for hazardous air pollutants emitted from existing, new, and reconstructed cupolas and curing ovens at facilities that produce mineral wool.

§ 63.1176 Where can I find definitions of key words used in this subpart?

The definitions of key words used in this subpart are in the Clean Air Act (Act), in § 63.2 of the general provisions in subpart A of this part, and in § 63.1196 of this subpart.

§ 63.1177 Am I subject to this subpart?

You are subject to this subpart if you own or operate an existing, new, or reconstructed mineral wool production facility that is located at a plant site that is a major source of hazardous air pollutant (HAP) emissions, meaning the plant emits or has the potential to emit any single HAP at a rate of 9.07 megagrams (10 tons) or more per year or any combination of HAPs at a rate of 22.68 megagrams (25 tons) or more per year.

Standards

§ 63.1178 For cupolas, what standards must I meet?

(a) You must control emissions from each cupola as follows:

(1) Limit emissions of particulate matter (PM) from each existing, new, or reconstructed cupola to 0.05 kilograms (kg) of PM per megagram (MG) (0.10 pound (lb) of PM per ton) of melt or less.

(2) Limit emissions of carbon monoxide (CO) from each new or reconstructed cupola to either of the following:

(i) 0.05 kg of CO per MG (0.10 lb of CO per ton) of melt or less.

(ii) A reduction of uncontrolled CO emissions by at least 99 percent.

(b) You must meet the following operating limits for each cupola:

(1) Begin within one hour after the alarm on a bag leak detection system sounds, and complete in a timely manner, corrective actions as specified in your operations, maintenance, and monitoring plan required by § 63.1187 of this subpart.

(2) When the alarm on a bag leak detection system sounds for more than five percent of the total operating time in a six-month reporting period, develop and implement a written quality improvement plan (QIP) consistent with the compliance assurance monitoring requirements of § 64.8(b)-(d) of 40 CFR part 64.

(3) Additionally, for each new or reconstructed cupola, maintain the operating temperature of the incinerator so that the average operating temperature for each three-hour block period never falls below the average temperature established during the performance test.

§ 63.1179 For curing ovens, what standards must I meet?

(a) You must control emissions from each existing, new, or reconstructed curing oven by limiting emissions of formaldehyde to either of the following:

(1) 0.03 kg of formaldehyde per MG (0.06 lb of formaldehyde per ton) of melt or less.

(2) A reduction of uncontrolled formaldehyde emissions by at least 90 percent.

(b) You must meet the following operating limits for each curing oven:

(1) Maintain the free-formaldehyde content of each resin lot and the formaldehyde content of each binder formulation at or below the specification ranges of the resin and binder used during the performance test.

(2) Maintain the operating temperature of each incinerator so that

the average operating temperature for each three-hour block period never falls below the average temperature established during the performance test.

§ 63.1180 When must I meet these standards?

(a) *Existing cupolas and curing ovens.* You must install any control devices and monitoring equipment necessary to meet the standards in this subpart, complete performance testing, and demonstrate compliance with all requirements of this subpart no later than the following:

- (1) June 2, 2002; or
- (2) June 3, 2003 if you apply for and receive a one-year extension under section 112(i)(3)(B) of the Act.

(b) *New and reconstructed cupolas and curing ovens.* You must install any control devices or monitoring equipment necessary to meet the standards in this subpart, complete performance testing, and demonstrate compliance with all requirements of this subpart by the dates in § 63.7 of the general provisions in subpart A of this part.

(c) You must comply with the standards in §§ 63.1178 and 63.1179 of this subpart on and after the dates in paragraphs (a) and (b) of this section.

(d) You must comply with these standards at all times except during periods of startup, shutdown, or malfunction.

Compliance With Standards

§ 63.1181 How do I comply with the particulate matter standards for existing, new, and reconstructed cupolas?

To comply with the PM standards, you must meet all of the following:

- (a) Install, adjust, maintain, and continuously operate a bag leak detection system for each fabric filter.
- (b) Do a performance test as specified in § 63.1188 of this subpart and show compliance with the PM emission limits while the bag leak detection system is installed, operational, and properly adjusted.
- (c) Begin corrective actions specified in your operations, maintenance, and monitoring plan required by § 63.1187 of this subpart within one hour after the alarm on a bag leak detection system sounds. Complete the corrective actions in a timely manner.
- (d) Develop and implement a written QIP consistent with compliance assurance monitoring requirements of 40 CFR 64.8(b) through (d) when the alarm on a bag leak detection system sounds for more than five percent of the total operating time in a six-month reporting period.

§ 63.1182 How do I comply with the carbon monoxide standards for new and reconstructed cupolas?

To comply with the CO standards, you must meet all of the following:

- (a) Install, calibrate, maintain, and operate a device that continuously measures the operating temperature in the firebox of each thermal incinerator.
- (b) Do a performance test as specified in § 63.1188 of this subpart and show compliance with the CO emission limits while the device for measuring incinerator operating temperature is installed, operational, and properly calibrated. Establish the average operating temperature as specified in § 63.1185(a) of this subpart.
- (c) Following the performance test, measure and record the average operating temperature of the incinerator as specified in § 63.1185(b) of this subpart.
- (d) Maintain the operating temperature of the incinerator so that the average operating temperature for each three-hour block period never falls below the average temperature established during the performance test.
- (e) Operate and maintain the incinerator as specified in your operations, maintenance, and monitoring plan required by § 63.1187 of this subpart.

§ 63.1183 How do I comply with the formaldehyde standards for existing, new, and reconstructed curing ovens?

To comply with the formaldehyde standards, you must meet all of the following:

- (a) Install, calibrate, maintain, and operate a device that continuously measures the operating temperature in the firebox of each thermal incinerator.
- (b) Do a performance test as specified in § 63.1188 of this subpart while manufacturing the product that requires a binder formulation made with the resin containing the highest free-formaldehyde content specification range. Show compliance with the formaldehyde emission limits while the device for measuring incinerator operating temperature is installed, operational, and properly calibrated. Establish the average operating temperature as specified in § 63.1185(a) of this subpart.
- (c) During the performance test that uses the binder formulation made with the resin containing the highest free-formaldehyde content specification range, record the free-formaldehyde content specification range of the resin used, and the formulation of the binder used, including the formaldehyde content and binder specification.
- (d) Following the performance test, monitor and record the free-

formaldehyde content of each resin lot and the formulation of each batch of binder used, including the formaldehyde content.

(e) Maintain the free-formaldehyde content of each resin lot and the formaldehyde content of each binder formulation at or below the specification ranges established during the performance test.

(f) Following the performance test, measure and record the average operating temperature of the incinerator as specified in § 63.1185(b) of this subpart.

(g) Maintain the operating temperature of the incinerator so that the average operating temperature for each three-hour block period never falls below the average temperature established during the performance test.

(h) Operate and maintain the incinerator as specified in your operations, maintenance, and monitoring plan required by § 63.1187 of this subpart.

(i) With prior approval from the Administrator, you may do short-term experimental production runs using resin where the free-formaldehyde content, or binder formulations where the formaldehyde content, is higher than the specification ranges of the resin and binder used during previous performance tests, or using experimental pollution prevention process modifications without first doing additional performance tests. Notification of intent to perform a short-term experimental production run must include the following information:

- (1) The purpose of the experimental run.
- (2) The affected production process.
- (3) How the resin free-formaldehyde content or binder formulation will deviate from previously approved levels or what the experimental pollution prevention process modifications are.
- (4) The duration of the experimental run.
- (5) The date and time of the experimental run.
- (6) A description of any emissions testing to be done during the experimental run.

Additional Monitoring Information

§ 63.1184 What do I need to know about the design specifications, installation, and operation of a bag leak detection system?

A bag leak detection system must meet the following requirements:

- (a) The bag leak detection system must be certified by the manufacturer to be capable of detecting PM emissions at concentrations of 10 milligrams per actual cubic meter (0.0044 grains per actual cubic foot) or less.

(b) The sensor on the bag leak detection system must provide output of relative PM emissions.

(c) The bag leak detection system must have an alarm that will sound automatically when it detects an increase in relative PM emissions greater than a preset level.

(d) The alarm must be located in an area where appropriate plant personnel will be able to hear it.

(e) For a positive-pressure fabric filter, each compartment or cell must have a bag leak detector. For a negative-pressure or induced-air fabric filter, the bag leak detector must be installed downstream of the fabric filter. If multiple bag leak detectors are required (for either type of fabric filter), detectors may share the system instrumentation and alarm.

(f) Each triboelectric bag leak detection system must be installed, operated, adjusted, and maintained so that it follows EPA's "Fabric Filter Bag Leak Detection Guidance" (EPA-454/R-98-015, September 1997). Other bag leak detection systems must be installed, operated, adjusted, and maintained so that they follow the manufacturer's written specifications and recommendations.

(g) At a minimum, initial adjustment of the system must consist of establishing the baseline output in both of the following ways:

(1) Adjust the range and the averaging period of the device.

(2) Establish the alarm set points and the alarm delay time.

(h) After initial adjustment, the range, averaging period, alarm set points, or alarm delay time may not be adjusted except as specified in the operations, maintenance, and monitoring plan required by § 63.1187 of this subpart. In no event may the range be increased by more than 100 percent or decreased by more than 50 percent over a 365 day period unless a responsible official as defined in § 63.2 of the general provisions in subpart A of this part certifies in writing to the Administrator that the fabric filter has been inspected and found to be in good operating condition.

§ 63.1185 How do I establish the average operating temperature of an incinerator?

(a) During the performance test, you must establish the average operating temperature of an incinerator as follows:

(1) Continuously measure the operating temperature of the incinerator.

(2) Determine and record the average temperatures in consecutive 15-minute blocks.

(3) Determine and record the arithmetic average of the recorded

average temperatures measured in consecutive 15-minute blocks for each of the one-hour performance test runs.

(4) Determine and record the arithmetic average of the three one-hour average temperatures during the performance test runs. The average of the three one-hour performance test runs establishes the temperature level to use to monitor compliance.

(b) To comply with the requirements for maintaining the operating temperature of an incinerator after the performance test, you must measure and record the average operating temperature of the incinerator as required by §§ 63.1182 and 63.1183 of this subpart. This average operating temperature of the incinerator is based on the arithmetic average of the one-hour average temperatures for each consecutive three-hour period and is determined in the same manner described in paragraphs (a)(1) through (a)(4) of this section.

§ 63.1186 How may I change the compliance levels of monitored parameters?

You may change control device and process operating parameter levels established during performance tests and used to monitor compliance if you do the following:

(a) You must notify the Administrator of your desire to expand the range of a control device or process operating parameter level.

(b) Upon approval from the Administrator, you must conduct additional performance tests at the proposed new control device or process operating parameter levels. Before operating at these levels, the performance test results must verify that, at the new levels, you comply with the emission limits in §§ 63.1178 and 63.1179 of this subpart.

§ 63.1187 What do I need to know about operations, maintenance, and monitoring plans?

(a) An operations, maintenance, and monitoring plan must be submitted to the Administrator for review and approval as part of your application for the title V permit.

(b) The operations, maintenance, and monitoring plan must include the following:

(1) Process and control device parameters you will monitor to determine compliance, along with established operating levels or ranges for each process or control device.

(2) A monitoring schedule.

(3) Procedures for properly operating and maintaining control devices used to meet the standards in §§ 63.1178 and

63.1179 of this subpart. These procedures must include an inspection of each incinerator at least once per year. At a minimum, you must do the following as part of an incinerator inspection:

(i) Inspect all burners, pilot assemblies, and pilot sensing devices for proper operation. Clean pilot sensor if necessary.

(ii) Ensure proper adjustment of combustion air, and adjust if necessary.

(iii) Inspect, when possible, all internal structures (such as baffles) to ensure structural integrity per the design specifications.

(iv) Inspect dampers, fans, and blowers for proper operation.

(v) Inspect motors for proper operation.

(vi) Inspect, when possible, combustion chamber refractory lining. Clean, and repair or replace lining if necessary.

(vii) Inspect incinerator shell for proper sealing, corrosion, and/or hot spots.

(viii) For the burn cycle that follows the inspection, document that the incinerator is operating properly and make any necessary adjustments.

(ix) Generally observe whether the equipment is maintained in good operating condition.

(x) Complete all necessary repairs as soon as practicable.

(4) Procedures for keeping records to document compliance.

(5) Corrective actions you will take if process or control device parameters vary from the levels established during performance testing. For bag leak detection system alarms, example corrective actions that may be included in the operations, maintenance, and monitoring plan include:

(i) Inspecting the fabric filter for air leaks, torn or broken bags or filter media, or any other condition that may cause an increase in emissions.

(ii) Sealing off defective bags or filter media.

(iii) Replacing defective bags or filter media, or otherwise repairing the control device.

(iv) Sealing off a defective fabric filter compartment.

(v) Cleaning the bag leak detection system probe, or otherwise repairing the bag leak detection system.

(vi) Shutting down the process producing the particulate emissions.

Performance Tests and Methods

§ 63.1188 What performance test requirements must I meet?

You must meet the following performance test requirements:

(a) All monitoring systems and equipment must be installed, operational, and properly calibrated before the performance tests.

(b) Do a performance test, consisting of three test runs, for each cupola and curing oven subject to this subpart at the maximum production rate to demonstrate compliance with each of the applicable emission limits in §§ 63.1178 and 63.1179 of this subpart.

(c) Measure emissions of PM from each existing cupola.

(d) Measure emissions of PM and CO from each new or reconstructed cupola.

(e) Measure emissions of formaldehyde from each existing, new or reconstructed curing oven.

(f) Measure emissions at the outlet of the control device if complying with a numerical emission limit for PM, CO, or formaldehyde, or at the inlet and outlet of the control device if complying with a percent reduction emission limit for CO or formaldehyde.

(g) To determine the average melt rate, measure and record the amount of raw materials, excluding coke, charged into and melted in each cupola during each performance test run. Determine and record the average hourly melt rate for each performance test run. Determine and record the arithmetic average of the average hourly melt rates associated with the three performance test runs. The average hourly melt rate of the three performance test runs is used to determine compliance with the applicable emission limits.

(h) Compute and record the average emissions of the three performance test runs and use the equations in § 63.1190 of this subpart to determine compliance with the applicable emission limits.

(i) Comply with control device and process operating parameter monitoring requirements for performance testing as specified in this subpart.

§ 63.1189 What test methods do I use?

You must use the following test methods to determine compliance with the applicable emission limits:

(a) Method 1 in appendix A to part 60 of this chapter for the selection of the sampling port locations and number of sampling ports.

(b) Method 2 in appendix A to part 60 of this chapter for stack gas velocity and volumetric flow rate.

(c) Method 3 or 3A in appendix A to part 60 of this chapter for oxygen and carbon dioxide for diluent measurements needed to correct the concentration measurements to a standard basis.

(d) Method 4 in appendix A to part 60 of this chapter for moisture content of the stack gas.

(e) Method 5 in appendix A to part 60 of this chapter for the concentration of PM. Each PM test run must consist of a minimum run time of three hours and a minimum sample volume of 3.75 dscm (135 dscf).

(f) Method 10 in appendix A to part 60 of this chapter for the concentration of CO, using the continuous sampling option described in section 7.1.1 of the method. Each CO test run must consist of a minimum run time of one hour.

(g) Method 318 in appendix A to this part for the concentration of formaldehyde or CO.

(h) Method to determine the free-formaldehyde content of each resin lot in appendix A of this subpart.

§ 63.1190 How do I determine compliance?

(a) Using the results of the performance tests, you must use the following equation to determine compliance with the PM emission limit:

$$E = \frac{C \times O \times K_1}{P}$$

where:

E = Emission rate of PM, kg/Mg (lb/ton) of melt.

C = Concentration of PM, g/dscm (gr/dscf).

Q = Volumetric flow rate of exhaust gases, dscm/hr (dscf/hr).

K₅₁ = Conversion factor, 1 kg/1,000 g (1 lb/7,000 gr).

P = Average melt rate, Mg/hr (ton/hr).

(b) Using the results of the performance tests, you must use the following equation to determine compliance with the CO and formaldehyde numerical emission limits:

$$E = \frac{C \times MW \times O \times K_1 \times K_2}{K_3 \times P \times 10^6}$$

where:

E = Emission rate of measured pollutant, kg/Mg (lb/ton) of melt.

C = Measured volume fraction of pollutant, ppm.

MW = Molecular weight of measured pollutant, g/g-mole:

CO = 28.01, Formaldehyde = 30.03.

Q = Volumetric flow rate of exhaust gases, dscm/hr (dscf/hr).

K₁ = Conversion factor, 1 kg/1,000 g (1 lb/453.6 g).

K₂ = Conversion factor, 1,000 L/m³ (28.3 L/ft³).

K₃ = Conversion factor, 24.45 L/g-mole.

P = Average melt rate, Mg/hr (ton/hr).

(c) Using the results of the performance tests, you must use the following equation to determine compliance with the CO and formaldehyde percent reduction performance standards:

$$\%R = \frac{L_i - L_o}{L_i} \times 100$$

where:

%R = Percent reduction, or collection efficiency of the control device.

L_i = Inlet loading of pollutant, kg/Mg (lb/ton).

L_o = Outlet loading of pollutant, kg/Mg (lb/ton).

Notification, Recordkeeping, and Reporting

§ 63.1191 What notifications must I submit?

You must submit written notifications to the Administrator as required by § 63.9(b)-(h) of the general provisions in subpart A of this part. These notifications include, but are not limited to, the following:

(a) Notification that the following types of sources are subject to the standard:

(1) An area source that increases its emissions so that it becomes a major source.

(2) A source that has an initial startup before the effective date of the standard.

(3) A new or reconstructed source that has an initial startup after the effective date of the standard and doesn't require an application for approval of construction or reconstruction under § 63.5(d) of the general provisions in subpart A of this part.

(b) Notification of intention to construct a new major source or reconstruct a major source where the initial startup of the new or reconstructed source occurs after the effective date of the standard and an application for approval of construction or reconstruction under § 63.5(d) of the general provisions in subpart A of this part is required.

(c) Notification of special compliance obligations for a new source that is subject to special compliance requirements in § 63.6(b)(3) and (4) of the general provisions in subpart A of this part.

(d) Notification of a performance test at least 60 calendar days before the performance test is scheduled to begin.

(e) Notification of compliance status.

§ 63.1192 What recordkeeping requirements must I meet?

You must meet the following recordkeeping requirements:

(a) Maintain files of all information required by § 63.10(b) of the general provisions in subpart A of this part, including all notifications and reports.

(b) Maintain records of the following information also:

(1) Cupola production (melt) rate (Mg/hr (tons/hr) of melt).

(2) All bag leak detection system alarms. Include the date and time of the alarm, when corrective actions were initiated, the cause of the alarm, an explanation of the corrective actions taken, and when the cause of the alarm was corrected.

(3) The free-formaldehyde content of each resin lot and the binder formulation, including formaldehyde content, of each binder batch used in the manufacture of bonded products.

(4) Incinerator operating temperature and results of incinerator inspections. For all periods when the average temperature in any three-hour block period fell below the average temperature established during the performance test, and all periods when the inspection identified incinerator components in need of repair or maintenance, include the date and time of the problem, when corrective actions were initiated, the cause of the problem, an explanation of the corrective actions taken, and when the cause of the problem was corrected.

(c) Retain each record for at least five years following the date of each occurrence, measurement, corrective action, maintenance, record, or report. The most recent two years of records must be retained at the facility. The remaining three years of records may be retained off site.

(d) Retain records on microfilm, on a computer, on computer disks, on magnetic tape disks, or on microfiche.

(e) Report the required information on paper or on a labeled computer disk using commonly available and compatible computer software.

§ 63.1193 What reports must I submit?

You must prepare and submit reports to the Administrator as required by this subpart and § 63.10 of the general provisions in subpart A of this part. These reports include, but are not limited to, the following:

(a) A performance test report, as required by § 63.10(d)(2) of the general provisions in subpart A of this part, that documents the process and control equipment operating parameters during the test period, the test methods and procedures, the analytical procedures, all calculations, and the results of the performance tests.

(b) A startup, shutdown, and malfunction plan, as described in § 63.6(e)(3) of the general provisions in subpart A of this part, that contains specific procedures for operating and maintaining the source during periods of startup, shutdown, and malfunction and a program of corrective action for malfunctioning process and control systems used to comply with the

emission standards. In addition to the information required by § 63.6(e)(3), your plan must include the following:

(1) Procedures to determine and record what caused the malfunction and when it began and ended.

(2) Corrective actions you will take if a process or control device malfunctions, including procedures for recording the actions taken to correct the malfunction or minimize emissions.

(3) An inspection and maintenance schedule for each process and control device that is consistent with the manufacturer's instructions and recommendations for routine and long-term maintenance.

(c) A report of each event as required by § 63.10(b) of the general provisions in subpart A of this part, including a report if an action taken during a startup, shutdown, or malfunction is inconsistent with the procedures in the plan as described in § 63.6(e)(3) of the general provisions in subpart A of this part.

(d) An operations, maintenance, and monitoring plan as specified in § 63.1187 of this subpart.

(e) A semiannual report as required by § 63.10(e)(3) of the general provisions in subpart A of this part if measured emissions exceed the applicable standard or a monitored parameter varies from the level established during performance testing. The report must contain the information specified in § 63.10(c) of the general provisions, as well as the relevant records required by § 63.1192(b) of this subpart.

(f) A semiannual report stating that no excess emissions or deviations of monitored parameters occurred during the reporting period as required by § 63.10(e)(3)(v) of the general provisions in subpart A of this part if no deviations have occurred.

Other Requirements and Information

§ 63.1194 Which general provisions apply?

The general provisions in subpart A of this part define requirements applicable to all owners and operators affected by NESHAP in part 63. See Table 1 of this subpart for general provisions that apply (or don't apply) to you as an owner or operator subject to the requirements of this subpart.

§ 63.1195 Who enforces this subpart?

If the Administrator has delegated authority to your State, then the State, along with the EPA, enforces this regulation. If the Administrator has not delegated authority to your State, then the EPA enforces this regulation.

§ 63.1196 What definitions should I be aware of?

Terms used in this subpart are defined in the Act, in § 63.2 of the general provisions in subpart A of this part, and in this section as follows:

Bag leak detection system means a monitoring device for a fabric filter that identifies an increase in particulate matter emissions resulting from a broken filter bag or other malfunction and sounds an alarm.

Bonded product means mineral wool to which a hazardous air pollutant-based binder (containing such hazardous air pollutants as phenol or formaldehyde) has been applied.

CO means, for the purposes of this subpart, emissions of carbon monoxide that serve as a surrogate for emissions of carbonyl sulfide, a compound included on the list of hazardous air pollutants in section 112 of the Act.

Cupola means a large, water-cooled metal vessel to which is charged a mixture of fuel, rock and/or slag, and additives. As the fuel is burned, the charged mixture is heated to a molten state for later processing to form mineral wool.

Curing oven means a chamber in which heat is used to thermoset a binder on the mineral wool fiber used to make bonded products.

Fabric filter means an air pollution control device used to capture particulate matter by filtering gas streams through fabric bags. It also is known as a baghouse.

Formaldehyde means, for the purposes of this subpart, emissions of formaldehyde that, in addition to being a HAP itself, serve as a surrogate for organic compounds included on the list of hazardous air pollutants in section 112 of the Act, including but not limited to phenol.

Hazardous air pollutant means any air pollutant listed in or pursuant to section 112(b) of the Act.

I means the owner or operator of a mineral wool production facility.

Incinerator means an enclosed air pollution control device that uses controlled flame combustion to convert combustible materials to noncombustible gases.

Melt means raw materials, excluding coke, that are charged into the cupola, heated to a molten state, and discharged to the fiber forming and collection process.

Melt rate means the mass of molten material discharged from a single cupola over a specified time period.

Mineral wool means a fibrous glassy substance made from natural rock (such as basalt), blast furnace slag or other slag, or a mixture of rock and slag. It

may be used as a thermal or acoustical insulation material or in the making of other products to provide structural strength, sound absorbency, fire resistance, or other required properties.

New source means any affected source the construction or reconstruction of which is commenced after May 8, 1997.

PM means, for the purposes of this subpart, emissions of particulate matter that serve as a surrogate for metals (in particulate or volatile form) on the list

of hazardous air pollutants in section 112 of the Act, including but not limited to: antimony, arsenic, beryllium, cadmium, chromium, lead, manganese, nickel, and selenium.

You means the owner or operator of a mineral wool production facility.

TABLE 1 TO SUBPART DDD OF PART 63—APPLICABILITY OF GENERAL PROVISIONS (40 CFR PART 63, SUBPART A) TO SUBPART DDD OF PART 63

General provisions citation	Requirement	Applies to subpart DDD ^a	Explanation
63.1(a)(1)–(a)(4)	General Applicability	Yes	[Reserved]
63.1(a)(5)		No	
63.1(a)(6)–(a)(8)		Yes	
63.1(a)(9)		No	
63.1(a)(10)–(a)(14)	Initial Applicability Determination	Yes	[Reserved]
63.1(b)		Yes	
63.1(c)(1)		Yes	
63.1(c)(2)		Yes	
63.1(c)(3)	Applicability After Standard Established	No	Some plants may be area sources [Reserved]
63.1(c)(4)–(c)(5)		Yes	
63.1(d)		No	
63.1(e)		Yes	
63.2	Definitions	Yes	Additional definitions in § 63.1196
63.3	Units and Abbreviations	Yes	
63.4(a)(1)–(a)(3)	Prohibited Activities	Yes	
63.4(a)(4)		No	
63.4(a)(5)		Yes	[Reserved]
63.4(b)–(c)		Yes	
63.5(a)	Circumvention/Severability	Yes	
63.5(b)(1)	Construction/Reconstruction Applicability	Yes	
	Existing, New, Reconstructed Sources Requirements	Yes	[Reserved]
63.5(b)(2)		No	
63.5(b)(3)–(b)(6)		Yes	
63.5(c)		No	
63.5(d)	Application for Approval of Construction/Reconstruction	Yes	[Reserved]
63.5(e)	Approval of Construction/Reconstruction	Yes	
63.5(f)	Approval of Construction/Reconstruction Based on State Review	Yes	
63.6(a)	Compliance with Standards and Maintenance Applicability	Yes	
63.6(b)(1)–(b)(5)	New and Reconstructed Sources Dates	Yes	[Reserved]
63.6(b)(6)		No	
63.6(b)(7)		Yes	
63.6(c)(1)		Yes	\$ 63.1180 specifies compliance dates.
63.6(c)(2)	Existing Sources Dates	Yes	
63.6(c)(3)–(c)(4)		No	
63.6(c)(5)		Yes	
63.6(d)		No	[Reserved]
63.6(e)(1)–(e)(2)	Operation & Maintenance Requirements	Yes	
63.6(e)(3)		Yes	
63.6(f)	Startup, Shutdown, and Malfunction Plan	Yes	
63.6(g)	Compliance with Emission Standards	Yes	\$ 63.1187 specifies additional requirements
63.6(h)	Alternative Standard	Yes	
	Compliance with Opacity/VE Standards	No	
63.6(i)(1)–(i)(14)	Extension of Compliance	Yes	
63.6(i)(15)		No	Subpart DDD does not include VE/opacity standards
63.6(i)(16)		Yes	
63.6(j)		Yes	
63.7(a)	Exemption from Compliance	Yes	\$ 63.1180 specifies date [Reserved]
	Performance Test Requirements Applicability	Yes	
63.7(b)	Notification	Yes	
63.7(c)	Quality Assurance/Test Plan	Yes	
63.7(d)	Testing Facilities	Yes	\$ 63.1188 specifies additional requirements
63.7(e)	Conduct of Tests	Yes	
		Yes	
63.7(f)	Alternative Test Method	Yes	
63.7(g)	Data Analysis	Yes	
63.7(h)	Waiver of Tests	Yes	

TABLE 1 TO SUBPART DDD OF PART 63—APPLICABILITY OF GENERAL PROVISIONS (40 CFR PART 63, SUBPART A) TO SUBPART DDD OF PART 63—Continued

General provisions citation	Requirement	Applies to subpart DDD?	Explanation
63.8(a)(1)	Monitoring Requirements Applicability	Yes	Subpart DDD does not require CMS performance specifications. [Reserved]
63.8(a)(2)		No	
63.8(a)(3)		No	
63.8(a)(4)		Yes	
63.8(b)	Conduct of Monitoring	Yes	Subpart DDD does not require COMS or CMS performance specifications. Subpart DDD does not require a CMS quality control program. Subpart DDD does not require CMS performance evaluations.
63.8(c)(1)–(c)(3)	CMS Operation/Maintenance	Yes	
63.8(c)(4)–(c)(8)		No	
63.8(d)	Quality Control	No	
63.8(e)	CMS Performance Evaluation	No	Subpart DDD does not require CEMS
63.8(f)(1)–(f)(5)	Alternative Monitoring Method	Yes	
63.8(f)(6)	Alternative to RATA Test	No	
63.8(g)(1)	Data Reduction	Yes	
63.8(g)(2)		No	Subpart DDD does not require COMS or CEMS
63.8(g)(3)–(g)(5)		Yes	
63.8(a)	Notification Requirements Applicability	Yes	
63.8(b)	Initial Notifications	Yes	
63.8(c)	Request for Compliance Extension	Yes	Subpart DDD does not include VE/opacity standards. Subpart DDD does not require CMS performance evaluation, COMS, or CEMS.
63.8(d)	New Source Notification for Special Compliance Requirements	Yes	
63.8(e)	Notification of Performance Test	Yes	
63.8(f)	Notification of VE/Opacity Test	No	
63.9(g)	Additional CMS Notifications	No	[Reserved]
63.9(h)(1)–(h)(3)	Notification of Compliance Status	Yes	
63.9(h)(4)		No	
63.9(h)(5)–(h)(6)		Yes	
63.9(i)		Yes	
63.9(j)	Adjustment of Deadlines	Yes	§ 63.1192 includes additional requirements.
63.10(a)	Change in Previous Information	Yes	
63.10(b)	Recordkeeping/Reporting-Applicability	Yes	
63.10(b)	General Recordkeeping Requirements	Yes	
63.10(c)(1)	Additional CMS Recordkeeping	Yes	[Reserved]
63.10(c)(2)–(c)(4)		No	
63.10(c)(5)		Yes	
63.10(c)(6)		No	
63.10(c)(7)–(c)(8)		Yes	Subpart DDD does not require CMS performance specifications.
63.10(c)(9)		No	
63.10(c)(10)–(c)(13)		Yes	
63.10(c)(14)		No	
63.10(c)(15)		Yes	Subpart DDD does not require a CMS quality control program.
63.10(d)(1)	General Reporting Requirements	Yes	
63.10(d)(2)	Performance Test Results	Yes	
63.10(d)(3)	Opacity or VE Observations	No	
63.10(d)(4)–(d)(5)	Progress Reports/ Startup, Shutdown, and Malfunction Reports	Yes	Additional requirements in § 63.1193
63.10(e)(1)–(e)(2)	Additional CMS Reports	No	
63.10(e)(3)	Excess Emissions/CMS Performance Reports	Yes	
63.10(e)(4)	COMS Data Reports	No	
63.10(f)	Recordkeeping/Reporting Waiver	Yes	Subpart DDD does not require CEMS or CMS performance evaluations.
63.11(a)	Control Device Requirements Applicability	Yes	
63.11(b)	Flares	No	
63.12	State Authority and Delegations	Yes	
63.13	Addresses	Yes	Flares not applicable
63.14	Incorporation by Reference	Yes	
63.15	Information Availability/Confidentiality	Yes	

Appendix A to Subpart DDD of Part 63— Free Formaldehyde Analysis of Insulation Resins by the Hydroxylamine Hydrochloride Method

1. Scope

The method in this appendix was specifically developed for water-soluble phenolic resins that have a relatively high free-formaldehyde (FF) content such as insulation resins. It may also be suitable for other phenolic resins, especially those with a high FF content.

2. Principle

2.1 a. The basis for this method is the titration of the hydrochloric acid that is liberated when hydroxylamine hydrochloride reacts with formaldehyde to form formaldoxime:



b. Free formaldehyde in phenolic resins is present as monomeric formaldehyde, hemiformals, polyoxymethylene hemiformals, and polyoxymethylene glycols. Monomeric formaldehyde and hemiformals react rapidly with hydroxylamine hydrochloride, but the polymeric forms of formaldehyde must hydrolyze to the monomeric state before they can react. The greater the concentration of free formaldehyde in a resin, the more of that formaldehyde will be in the polymeric form. The hydrolysis of these polymers is catalyzed by hydrogen ions.

2.2 The resin sample being analyzed must contain enough free formaldehyde so that the initial reaction with hydroxylamine hydrochloride will produce sufficient hydrogen ions to catalyze the depolymerization of the polymeric formaldehyde within the time limits of the test method. The sample should contain approximately 0.3 grams (g) free

formaldehyde to ensure complete reaction within 5 minutes.

3. Apparatus

- 3.1 Balance, readable to 0.01 g or better.
- 3.2 pH meter, standardized to pH 4.0 with pH 4.0 buffer and pH 7 with pH 7.0 buffer.
- 3.3 50-mL burette for 1.0 N sodium hydroxide.
- 3.4 Magnetic stirrer and stir bars.
- 3.5 250-mL beaker.
- 3.6 50-mL graduated cylinder.
- 3.7 100-mL graduated cylinder.
- 3.8 Timer.

4. Reagents

- 4.1 Standardized 1.0 N sodium hydroxide solution.
- 4.2 Hydroxylamine hydrochloride solution, 100 grams per liter, pH adjusted to 4.00.
- 4.3 Hydrochloric acid solution, 1.0 N and 0.1 N.
- 4.4 Sodium hydroxide solution, 0.1 N.
- 4.5 50/50 v/v mixture of distilled water and methyl alcohol.

5. Procedure

5.1 Determine the sample size as follows:
a. If the expected FF is greater than 2 percent, go to Part A in 5.1.c to determine sample size.

b. If the expected FF is less than 2 percent, go to Part B in 5.1.d to determine sample size.

c. Part A: Expected FF \geq 2 percent.

Grams resin = 60/expected percent FF

i. The following table shows example levels:

Expected percent free formaldehyde	Sample size, grams
2	30.0
5	12.0
8	7.5

Expected percent free formaldehyde	Sample size, grams
10	6.0
12	5.0
15	4.0

ii. It is very important to the accuracy of the results that the sample size be chosen correctly. If the milliliters of titrant are less than 15 mL or greater than 30 mL, reestimate the needed sample size and repeat the tests.

d. Part B: Expected FF < 2 percent.

Grams resin = 30/expected percent FF

i. The following table shows example levels:

Expected percent free formaldehyde	Sample size, grams
2	15
1	30
0.5	60

ii. If the milliliters of titrant are less than 5 mL or greater than 30 mL, reestimate the needed sample size and repeat the tests.

5.2 Weigh the resin sample to the nearest 0.01 grams into a 250-mL beaker. Record sample weight.

5.3 Add 100 mL of the methanol/water mixture and stir on a magnetic stirrer. Confirm that the resin has dissolved.

5.4 Adjust the resin/solvent solution to pH 4.0, using the prestandardized pH meter, 1.0 N hydrochloric acid, 0.1 N hydrochloric acid, and 0.1 N sodium hydroxide.

5.5 Add 50 mL of the hydroxylamine hydrochloride solution, measured with a graduated cylinder. Start the timer.

5.6 Stir for 5 minutes. Titrate to pH 4.0 with standardized 1.0 N sodium hydroxide. Record the milliliters of titrant and the normality.

6. Calculations

$$\% \text{ FF} = \frac{\text{mL sodium hydroxide} \times \text{normality} \times 3.003}{\text{grams of sample}}$$

7. Method Precision and Accuracy

Test values should conform to the following statistical precision:

Variance = 0.005

Standard deviation = 0.07

95% Confidence Interval, for a single determination = 0.2

8. Author

This method was prepared by K.K. Tutin and M.L. Foster, Tacoma R&D Laboratory, Georgia-Pacific Resins, Inc. (Principle written by R. R. Conner.)

9. References

- 9.1 GPAM 2221.2

9.2 PR&C TM 2.035.

9.3 Project Report, Comparison of Free Formaldehyde Procedures, January 1990, K. Tutin.

[FR Doc. 99-12585 Filed 5-28-99; 8:45 am]

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Federal Register

**Tuesday
June 1, 1999**

Part IV

Department of Education

**Federal Pell Grant, Federal Perkins Loan,
Federal Work-Study, Federal
Supplemental Educational Opportunity
Grant, Federal Family Education Loan,
and William D. Ford Federal Direct Loan
Programs; Notice**

DEPARTMENT OF EDUCATION

Federal Pell Grant, Federal Perkins Loan, Federal Work-Study, Federal Supplemental Educational Opportunity Grant, Federal Family Education Loan, and William D. Ford Federal Direct Loan Programs

AGENCY: Office of Student Financial Assistance, Department of Education.

ACTION: Notice of revision of the Federal need analysis methodology for the 2000-2001 award year.

SUMMARY: The Secretary of Education announces the annual updates to the tables that will be used in the statutory "Federal Need Analysis Methodology" to determine a student's expected family contribution (EFC) for award year 2000-2001 under Part F of Title IV of the Higher Education Act of 1965, as amended (Title IV, HEA Programs). An EFC is the amount a student and his or her family may reasonably be expected to contribute toward the student's postsecondary educational costs for purposes of determining financial aid eligibility. The Title IV, HEA Programs include the Federal Pell Grant, campus-based (Federal Perkins Loan, Federal Work-Study, and Federal Supplemental Educational Opportunity Grant Programs), Federal Family Education Loan, and William D. Ford Federal Direct Loan Programs.

FOR FURTHER INFORMATION CONTACT: Ms. Edith Bell, Program Specialist, General Provisions Branch, Policy Development Division, U.S. Department of Education, 400 Maryland Avenue, SW. (Room

3053, ROB-3), Washington, DC 20202-5444. Telephone: (202) 708-8242. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiocassette or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION: Part F of Title IV of the HEA specifies the criteria, data elements, calculations, and tables used in the Federal Need Analysis Methodology EFC calculations.

Section 478 of Part F of the HEA requires the Secretary to adjust four of the tables—the Income Protection Allowance, the Adjusted Net Worth of a Business or Farm, the Education Savings and Asset Protection Allowance, and the Assessment Schedules and Rates—each award year to take into account inflation. The changes are based, in general, upon increases in the Consumer Price Index.

For the award year 2000-2001, the Secretary is charged with updating the income protection allowance, adjusted net worth of a business or farm, and the assessment schedules and rates to account for inflation that took place between December 1998 and December 1999. However, since the Secretary must publish these tables before December 1999, the increases in the tables must be based upon the percentage equal to the estimated percentage increase in the Consumer Price Index for all Urban

Consumers for 1998. The Secretary estimates that the increase in the Consumer Price Index for all Urban Consumers for the period December 1998 through December 1999 will be 2.4 percent. The updated tables are in sections 1, 2, and 4 of this notice.

The Secretary must also revise, for each award year, the table on asset protection allowance as provided for in section 478(d) of the HEA. The Education Savings and Asset Protection Allowance table for the award year 2000-2001 has been updated in section 3 of this notice.

Section 477(b)(5) of Part F of the HEA also requires the Secretary to increase the amount specified for the Employment Expense Allowance to account for inflation based upon increases in the Bureau of Labor Statistics budget of the marginal costs for a two-earner compared to one-earner family for meals away from home, apparel and upkeep, transportation, and housekeeping services. Therefore, the Secretary is increasing this allowance as described in section 5 of this notice.

The HEA provides for the following annual updates:

1. Income Protection Allowance. This allowance is the amount of reasonable living expenses that would be associated with the maintenance of an individual or family. The allowance is offset against the family's income and varies by family size. The income protection allowances for parents of dependent students and independent students with dependents other than a spouse for award year 2000-2001 are:

Family size	Number in college				
	1	2	3	4	5
2	\$12,450	\$10,320			
3	15,500	13,380	\$11,250		
4	19,140	17,010	14,890	\$12,760	
5	22,580	20,450	18,340	16,210	\$14,090
6	26,420	24,290	22,170	20,040	17,920

For each additional family member add \$2,940.
For each additional college student subtract \$2,090.

2. Adjusted Net Worth (NW) of a Business or Farm. A portion of the full net value of a farm or business is excluded from the calculation of an expected contribution since—(1) the income produced from these assets is

already assessed in another part of the formula; and (2) the formula protects a portion of the value of the assets. The portion of these assets included in the contribution calculation is computed according to the following schedule.

This schedule is used for parents of dependent students, independent students without dependents other than a spouse, and independent students with dependents other than a spouse.

If the net worth of a business or farm is	Then the adjusted new worth is
Less than \$1	\$0.
\$1 to \$90,000	\$0 + 40% of NW.
\$90,001 to \$265,000	\$36,000 + 50% of NW over \$90,000.
\$265,001 to \$445,000	\$123,500 + 60% of NW over \$265,000.
\$445,001 or more	\$231,500 + 100% of NW over \$445,000.

3. Education Savings and Asset Protection Allowance. This allowance protects a portion of net worth (assets less debts) from being considered available for postsecondary educational expenses. There are three asset protection allowance tables—one for parents of dependent students, one for independent students without dependents other than a spouse, and one for independent students with dependents other than a spouse.

DEPENDENT STUDENTS

If the age of the older parents is:	And there are	
	Two parents	One parent
	Then the education savings and asset protection allowance is—	
25 or less	0	0
26	2,600	1,600
27	5,200	3,300
28	7,800	4,900
29	10,500	6,600
30	13,100	8,200
31	15,700	9,800
32	18,300	11,500
33	20,900	13,100
34	23,500	14,800
35	26,100	16,400
36	28,700	18,000
37	31,400	19,700
38	34,000	21,300
39	36,600	23,000
40	39,200	24,600
41	39,900	25,200
42	40,900	25,800
43	42,000	26,300
44	43,100	26,900
45	44,400	27,400
46	45,600	28,100
47	46,700	28,700
48	47,900	29,300
49	49,100	30,000
50	50,300	30,700
51	51,900	31,400
52	53,200	32,000
53	54,800	33,000
54	56,200	33,800
55	57,900	34,700
56	59,700	35,600
57	61,500	36,400
58	63,400	37,500
59	65,300	38,500
60	67,200	39,400
61	69,600	40,600
62	71,600	41,700
63	74,100	42,900
64	76,600	44,100
65 and over	78,900	45,500

INDEPENDENT STUDENTS WITHOUT DEPENDENTS OTHER THAN A SPOUSE

If the age of the student is	And the student is	
	Married	Single
	Then the education savings and asset protection allowance is—	
25 or less	0	0
26	2,600	1,600
27	5,200	3,300
28	7,800	4,900
29	10,500	6,600
30	13,100	8,200
31	15,700	9,800
32	18,300	11,500
33	20,900	13,100
34	23,500	14,800
35	26,100	16,400
36	28,700	18,000
37	31,400	19,700
38	34,000	21,300
39	36,600	23,000
40	39,200	24,600
41	39,900	25,200
42	40,900	25,800
43	42,000	26,300
44	43,100	26,900
45	44,400	27,400
46	45,600	28,100
47	46,700	28,700
48	47,900	29,300
49	49,100	30,000
50	50,300	30,700
51	51,900	31,400
52	53,200	32,200
53	54,800	33,000
54	56,200	33,800
55	57,900	34,700
56	59,700	35,600
57	61,500	36,400
58	63,400	37,500
59	65,300	38,500
60	67,200	39,400
61	69,600	40,600
62	71,600	41,700
63	74,100	42,900
64	76,600	44,100
65 and over	78,900	45,500

INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE

If the age of the students is	And the student is	
	Married	Single
	Then the education savings and asset protection allowance is—	
25 or less	0	0
26	2,600	1,600
27	5,200	3,300
28	7,800	4,900
29	10,500	6,600
30	13,100	8,200
31	15,700	9,800
32	18,300	11,500
33	20,900	13,100
34	23,500	14,800

INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE—Continued

If the age of the students is	And the student is	
	Married	Single
	Then the education savings and asset protection allowance is—	
35	26,100	16,400
36	28,700	18,000
37	31,400	19,700
38	34,000	21,300
39	36,600	23,000
40	39,200	24,600
41	39,900	25,200
42	40,900	25,800
43	42,000	26,300
44	43,100	26,900
45	44,400	27,400
46	45,600	28,100
47	46,700	28,700
48	47,900	29,300
49	49,100	30,000
50	50,300	30,700
51	51,900	31,400
52	53,200	32,200
53	54,800	33,000
54	56,200	33,800
55	57,900	34,700
56	59,700	35,600
57	61,500	36,400
58	63,400	37,500
59	65,300	38,500
60	67,200	39,400
61	69,600	40,600
62	71,600	41,700
63	74,100	42,900
64	76,600	44,100
65 and over	78,900	45,500

4. Assessment Schedules and Rates.

Two schedules, one for dependent students and one for independent students with dependents other than a spouse, are used to determine the expected contribution toward educational expenses from family financial resources. For dependent students, the expected parental contribution is derived from an assessment of the parents adjusted available income (AAI). For independent students with dependents other than a spouse, the expected contribution is derived from an assessment of the family's AAI. The AAI represents a measure of a family's financial strength, which considers both income and assets.

The parents' contribution for a dependent student is computed according to the following schedule:

If AAI is—	Then the contribution is—
Less than—\$3,409 (\$3,409)	\$750
(\$3,409) to \$11,100	22% of AAI
\$11,101 to \$14,000	\$2,442 + 25% of AAI over \$11,100
\$14,001 to \$16,800	\$3,167 + 29% of AAI over \$14,000
\$16,801 to \$19,600	\$3,979 + 34% of AAI over \$16,800
\$19,601 to \$22,500	\$4,931 + 40% of AAI over \$19,600
\$22,501 or more	\$6,091 + 47% of AAI over \$22,500

The contribution for an independent student with dependents other than a spouse is computed according to the following schedule:

If AAI is—	Then the contribution is—
Less than — \$3,409 (\$3,409)	\$750.
(\$3,409) to \$11,100	22% of AAI
\$11,101 to \$14,000	\$2,442 + 25% of AAI over \$11,100.
\$14,001 to \$16,800	\$3,167 + 29% of AAI over \$14,000.
\$16,801 to \$19,600	\$3,979 + 34% of AAI over \$16,800.
\$19,601 to \$22,500	\$4,931 + 40% of AAI over \$19,600.
\$22,501 or more	\$6,091 + 47% of AAI over \$22,500.

5. Employment Expense Allowance.

This allowance for employment-related expenses, which is used for the parents or dependent students and for married independent students with dependents, recognizes additional expenses incurred by working spouses and single-parent households. The allowance is based upon the marginal difference in costs for a two-earner family compared to a one-earner family for meals away from home, apparel and upkeep,

transportation, and housekeeping services.

The employment expense allowance for parents of dependent students, married independent students without dependents other than a spouse, and independent students with dependents other than a spouse is the lesser of \$2,800 or 35 percent of earned income.

6. *Allowance for State and Other Taxes.* This allowance for State and other taxes protects a portion of the

parents' and students' income from being considered available for postsecondary educational expenses. There are four tables for State and other taxes, one each for parents of dependent students, independent students with dependents other than a spouse, dependent students, and independent students without dependents other than a spouse.

PARENTS OF DEPENDENT STUDENTS

If parents' State or territory of residence is	And parents' total income is—	
	Less than \$15,000 or	\$15,000 or more
	Then the percentage is—	
Wyoming, Tennessee, Nevada, Alaska, Texas	2	2
Louisiana, Florida, Washington, South Dakota	3	3
Alabama, Mississippi	4	4
North Dakota, Illinois, Connecticut, New Mexico, Missouri, West Virginia, Arizona, Indiana, Oklahoma, Arkansas	6	5
New Hampshire, Pennsylvania, Colorado, Georgia, Kansas, Kentucky, Idaho	7	6
North Carolina, Virginia, Delaware, South Carolina, Ohio, Utah, Nebraska, Montana, California, New Jersey, Iowa, Vermont, Hawaii	8	7
Massachusetts, Rhode Island, Michigan, Minnesota, Maine, Maryland	9	8
District of Columbia, Wisconsin, Oregon	10	9
New York	11	10
Other	4	3

INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE

If student's State or territory of residence is	And student's total income is—	
	Less than \$15,000 or	\$15,000 or more
	Then the percentage is	
Wyoming, Tennessee, Nevada, Alaska, Texas	3	2
Louisiana, Florida, Washington, South Dakota	4	3
Alabama, Mississippi	5	4
North Dakota, Illinois, Connecticut, New Mexico, Missouri, West Virginia, Arizona, Indiana, Oklahoma, Arkansas	6	5
New Hampshire, Pennsylvania, Colorado, Georgia, Kansas, Kentucky, Idaho	7	6
North Carolina, Virginia, Delaware, South Carolina, Ohio, Utah, Nebraska, Montana, California, New Jersey, Iowa, Vermont, Hawaii	8	7
Massachusetts, Rhode Island, Michigan, Minnesota, Maine, Maryland	9	8
District of Columbia, Wisconsin, Oregon	10	9
New York	11	10
Other	4	3

DEPENDENT STUDENTS

If student's State or territory of residence is	The percentage is—
Alaska, Texas, South Dakota, Wyoming, Washington, Tennessee, Nevada	0
Florida, New Hampshire	1
Connecticut, Louisiana, Illinois, North Dakota	2
Mississippi, Arizona, Alabama, Pennsylvania, New Jersey, Missouri	3
Nebraska, Indiana, Colorado, New Mexico, Oklahoma, Kansas, West Virginia, Rhode Island, Virginia, Georgia, Arkansas, Vermont, Michigan	4
Montana, Idaho, Utah, Kentucky, Massachusetts, California, North Carolina, South Carolina, Ohio, Iowa, Delaware, Maine, Wisconsin	5
Oregon, Maryland, Minnesota, Hawaii	6
District of Columbia, New York	7
Other	2

INDEPENDENT STUDENTS WITHOUT DEPENDENTS OTHER THAN A SPOUSE

If student's State or territory of residence is	The percentage is—
Alaska, Texas, South Dakota, Wyoming, Washington, Tennessee, Nevada	0
Florida, New Hampshire	1
Connecticut, Louisiana, Illinois, North Dakota	2
Mississippi, Arizona, Alabama, Pennsylvania, New Jersey, Missouri	3
Nebraska, Indiana, Colorado, New Mexico, Oklahoma, Kansas, West Virginia, Rhode Island, Virginia, Georgia, Arkansas, Vermont, Michigan	4
Montana, Idaho, Utah, Kentucky, Massachusetts, California, North Carolina, South Carolina, Ohio, Iowa, Delaware, Maine, Wisconsin	5
Oregon, Maryland, Minnesota, Hawaii	6

INDEPENDENT STUDENTS WITHOUT DEPENDENTS OTHER THAN A SPOUSE—Continued

If student's State or territory of residence is	The percentage is—
District of Columbia, New York	7
Other	2

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(Catalog of Federal Domestic Assistance Numbers: 84.007 Federal Supplemental Educational Opportunity Grant; 84.032 Federal Family Education Loan Program; 84.033 Federal Work-Study Program; 84.038 Federal Perkins Loan Program; 84.063 Federal Pell Grant Program; William D. Ford Federal Direct Loan Program, 84.268)

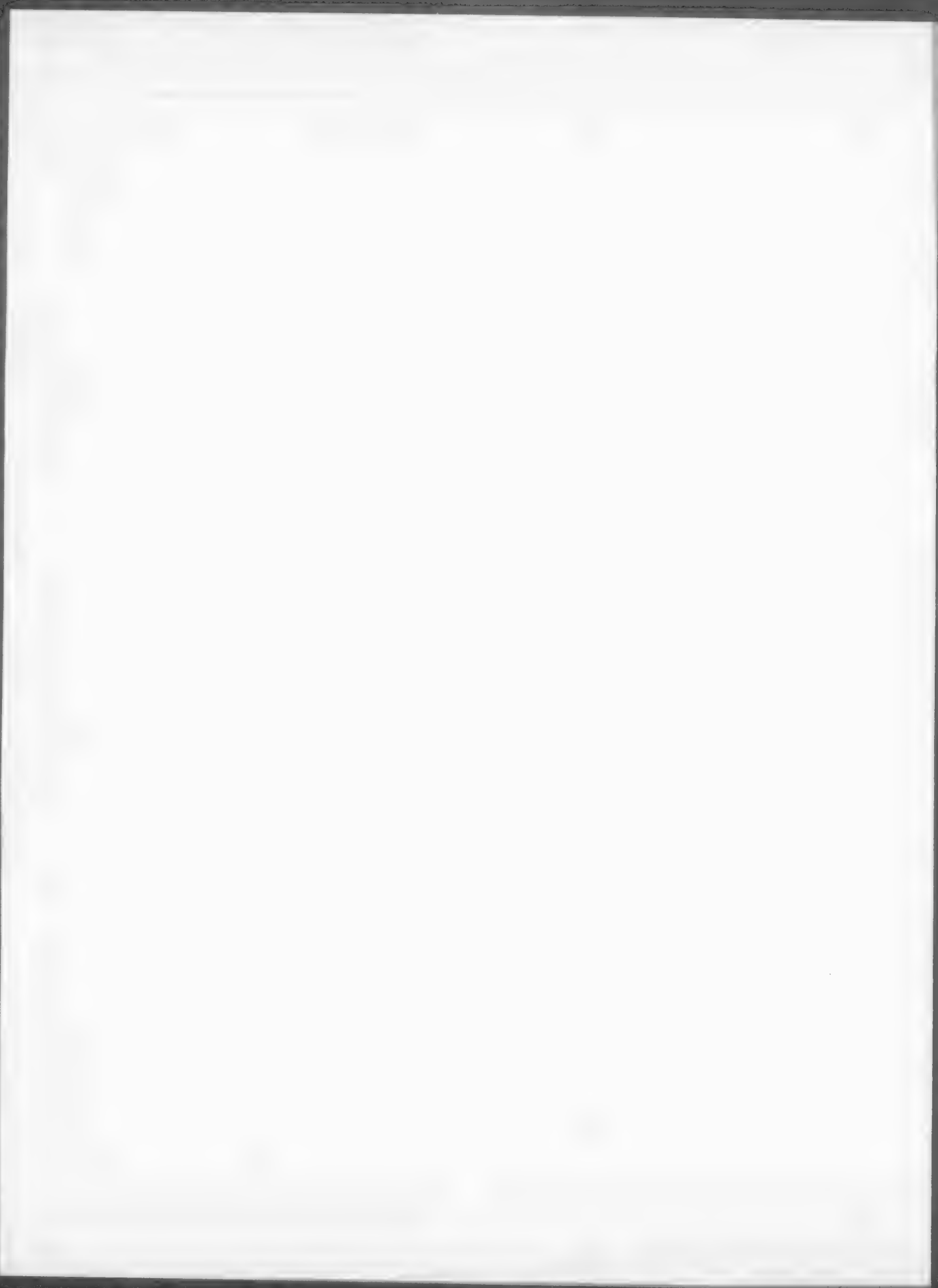
Dated: May 26, 1999.

Greg Woods,

Chief Operating Officer, Office of Student Financial Assistance.

[FR Doc. 99-13767 Filed 5-28-99; 8:45 am]

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Federal Register

Tuesday
June 1, 1999

Part V

Library of Congress

Copyright Office

37 CFR Part 201 et al.

Fees and Registration of Claims to
Copyright; Group Registration of Daily
Newsletters; Final Rules

LIBRARY OF CONGRESS

Copyright Office

37 CFR Parts 201, 202, 203, 204, and 211

[Docket No. 98-2C]

Fees

AGENCY: Copyright Office, Library of Congress.**ACTION:** Final Regulations.

SUMMARY: The Copyright Office is issuing final regulations adjusting certain fees it charges for copyright registration, recordation, and related services in order more nearly to recover the reasonable costs of providing these services. Formerly most of these fees were determined by Congress and were referred to as statutory fees. In the future, they will be referred to as fees for registration, recordation, and related services. To facilitate public reference and Copyright Office administration, the Office is also consolidating and relocating in one new regulatory section most references to fees for other services, including fees for discretionary or special services and services performed by the Licensing Division.

EFFECTIVE DATE: July 1, 1999.

FOR FURTHER INFORMATION CONTACT: Marilyn J. Kretsinger, Assistant General Counsel, or Charlotte Douglass, Principal Legal Advisor to the General Counsel, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, DC 20024. Telephone: (202) 707-8380. Fax: (202) 707-8366.

SUPPLEMENTARY INFORMATION:

I. Background

On November 13, 1997, Congress amended Section 708 of title 17, United States Code, to authorize the Register of Copyrights to fix the basic registration and other fees described in section 708(a)(1)-(9) to recover reasonable costs incurred for providing the service and to add an adjustment for inflation. Pub. L. 105-80, 111 Stat. 1529 (1997). Congress had adjusted these fees in 1990. Copyright Fees and Technical Amendments Act, Pub. L. 101-318, 104 Stat. 287 (1990). The 1997 legislation authorizes the Register of Copyrights to set all fees assessed by the Copyright Office rather than follow the former practice whereby Congress set some and the Register set others. Congress went on, however, to state what the Register must do in order to increase copyright fees. First the Register has to conduct a study of the costs for provision of services. Then on the basis of the study,

barring legislation to the contrary, the Register can fix fees that (1) recover reasonable costs and (2) are fair, equitable, and consistent with the objectives of the copyright system.

In preparation for increasing fees, the Office undertook a comprehensive economic analysis of the operating costs involved in providing services to users that culminates with the fees identified in this final regulation. The Register began by appointing an internal task force, the Fee Analysis Task Force Group (FEATAG), to conduct the eighteen month project. The Register then commissioned financial management consultants and an outside company, Abacus, to determine what cost recovery would be after certain necessary adjustments were made. FEATAG analyzed Abacus's study and made recommendations of its own, including a recommendation to amend the special service fees described in 17 U.S.C. 710(a)(10). See Notice of Proposed Rulemaking, 63 FR 15802 (1998). After full consideration of public comments, on May 28, 1998, the Office issued final regulations adjusting the special service fees. 63 FR 29137 (1998).

On August 13, 1998, in the second phase of consideration of fee adjustments, the Copyright Office proposed two alternative schedules of fees that would increase basic registration fees and other statutory or required fee services in a Notice of Inquiry (NOI). This NOI was designed specifically to address the congressional criteria for statutory fees. Schedule I fees would have increased basic registration fees from \$20.00 to \$45.00. Preliminarily, the Office met with representatives of several authors' groups and representatives of other copyright interests with concerns about potential fee increases. These initial comments led the Office to propose an alternative to Schedule I which would have increased basic registration fees for individual authors more modestly, from \$20 to \$35. To make up for the shortfall in income from individual authors, Schedule II would have set basic registration fees for nonindividual authors at \$50. The Office requested public comment on these two proposals, and announced a public hearing to be held on October 1, 1998. See FR 43426 (1998).

Comments

The Office heard nine witnesses and received twenty-three written comments on the matter of adjusting statutory fees. The hearing yielded additional data to fulfill the congressional directives of cost recovery, fairness, equity, and adherence to the objectives of the

copyright system. This material enabled the Office to review the costs of providing services in light of the particular needs of the public, the Library of Congress, and the overall objectives of the copyright system. With the hearing and subsequent analysis, the Office was able to conclude its extensive study of costs and consideration of all other pertinent information including the effect of a fee increase on collections and exchange programs of the Library of Congress.

Following its analysis of all information, the Office completed the last phase of its study, presenting its fee recommendations in a comprehensive report to Congress on February 1, 1999. Analysis and Proposed Copyright Fee Schedule to Go Into Effect July 1, 1999, Register of Copyrights, U.S. Copyright Office (1999).¹ The report analyzes the testimony and written comments in detail, and shows how the statutory criteria were applied to the ultimate decision to reduce the amount of the proposed fee increase for basic registration.

Although the Office believes that generally a schedule of fees should be based on full recovery of direct costs, it recognizes that not all costs of the Office should be borne by the fees, in view of the many services the Copyright Office performs for the Library of Congress, the U.S. Congress, the administration, and the public in general. In the past, Congress has consistently set fees for basic services at a level that recovers about two-thirds of the Office's costs, with the rest of the budget coming from taxpayer revenue. The public comments also revealed that the registering public, based on its view of what is reasonable, fair, and equitable, believed that not all costs of the Copyright Office should be borne by the user. The major concern addressed by individual authors and representatives of interest groups was the size of both proposed increases for registration. Some significant concerns of the witnesses and commentators are reflected in the following questions and answers.

1. Based on the Fees Proposed, Who Is Unlikely To Register

Witnesses representing small and mid-size music publishers, individual songwriters and their estates, and graphic artists and journalists, newsletter publishers and photographers, as well as a representative of the Copyright Office's largest single customer stated that they would be unable to register if fees were

¹ This report has been published on the Copyright Office website [www.loc.gov/copyright].

increased to the proposed levels. Some commentators pointed to the potential for overall erosion of the value of the copyright registration record that would result from the inability of many applicants to afford registration. The link between registration and the availability of strong remedies for registration afforded by section 412 of the copyright law concerned most commentators, and one stated that the assumption that these remedies would be available to all underlies the premise of reasonable registration fees.

2. Should an Individual Author of Unpublished Works Pay a Lower Registration Fee

All the groups representing individual authors supported a lower fee for registrations made by their members, but their request for reduced fees were not restricted to unpublished works. Some organizations noted that given the higher susceptibility of published works to infringement, particularly when placed online, published works by individual authors should be included in this option.

3. Should There Be Other Distinctions in Assessing Fees

a. Should there be a small business exemption? A number of organizations favored a small business exemption, offering various solutions for how the exemption should be crafted. One witness, however, testified that organizations would be unwilling to disclose net worth information to qualify for such an exemption. Even organizations favoring this exemption noted potential problems with administering the exemption, in addition to expected new costs solely attributable to its administration.

b. Should there be a higher fee for works made for hire? This two-tier option was strongly supported by writers' organizations, while representatives of the motion picture, computer software, and other industries opposed it. One common interest of groups favoring higher fees for works for hire was the collective desire to deter publishers from forcing work made for hire agreements on unwilling authors. Underlying this concern is their presumption that publisher/employers are better able to pay higher fees than individual authors.

c. Should the fee be based on the commercial value of the work? While some organizations urged the Copyright Office to set fees based on the value of the work, such as a sliding scale related to a work's expected revenue, most commentators rejected this alternative. This also could be expected to add

significant administrative costs. On the whole, witnesses and commentators believed the Office should avoid tying fees to distinctions unrelated to the cost of providing particular services.

4. Should the Office Exclude Certain Costs That Do Not Relate Directly to Core Registration/Recordation Functions and Allocate Some Registration Costs to Other Beneficiaries

Although numerous commentators discussed the detrimental impact that increased costs would have on the objectives of the copyright system, three commentators specifically supported the exclusion of certain costs not directly related to core functions. One urged that the taxpayer bear a greater portion of registration costs since the public benefits from the copyright system. Other commentators questioned whether the statutory mandate of fairness and equity was addressed in the proposed increase, given that fees would in some cases more than double current levels.

Finally, commentators stated that the proposed fees threatened the goals of the copyright system. Emphasizing that the size of the proposed fee increase threatened erosion of the public record, they noted the wide range of beneficiaries of the copyright system available to share the full economic burden of registration. The commentators left the clear impression that imposing full or nearly full cost recovery on applicants whose works are marginally profitable and to whom completion of their own copyright application materials is an administrative burden will likely cause them to drop out of the system, vitiating the value of a comprehensive public record of registrations.

A more complete summary of all phases of the Office's work in setting new copyright fees is included in Analysis and Proposed Copyright Fee Schedule To Go Into Effect July 1, 1999, the report the Register submitted to Congress on February 1, 1999.

II. Final Regulations

A. Adoption of new fees for registration, recordation and other required services

As detailed in the report, after careful consideration of all hearing testimony and written comments, the Copyright Office determined it should recommend registration fees that were not as great an increase as those originally proposed. To avoid undermining the value of the registration system, particularly for individual authors and small businesses, thereby reducing the availability of works for the Library of

Congress' collections and programs, the Register reduced the proposed fee for basic registration from \$45 (or \$35/\$50) to \$30. By maintaining the other fees at the levels proposed to recover reasonable costs, this fee adjustment responds both to individual authors' wish not to face a dramatic fee increase that would price them out of the system and to the Office's obligation to recover more of its operating costs through fees.

B. Fees Related to Group Registration of Daily Newsletters

In one special adjustment, the Office is amending the group registration procedure for daily newsletters that are published at least twice weekly. Information on this amendment is being published today elsewhere in this issue.

C. Clarification and Consolidation of Fees in Regulatory Text

The Office is also clarifying an existing procedure related to requests for material under § 202.2(b)(4).

With respect to organization of fee information in the Copyright Office regulations, these regulations consolidate most fees in one new section, 37 CFR 201.3, and remove specific references to fees in disparate sections. In making this consolidation, the Office identifies in § 201.3(c) fees for certain registration, recordation and related services including those formerly known as "statutory fees" which are currently located in 17 U.S.C. 708(a)(1)–(9);² identifies in § 201.3(d) special service fees referred to in section § 708(a)(10) and formerly located at 37 CFR 201.32; and identifies in § 201.3(e) fees related to services provided by the Licensing Division.

New subsection § 201.3(e) provides a quick reference for certain services provided by the Licensing Division. Some of the licensing fees contained in § 201.3(e) relate to basic services described in § 201.3(c) and have been adjusted; others remain the same. Royalty payments for compulsory licenses are not included in § 201.3(e).

This reorganization of copyright fees should facilitate public reference to current fees and the Office's future amendment of fees. Future fee adjustments will be considered every three years; the percentage increase, however, is expected to be smaller.

² The Office notes that beginning on July 1, 1999, the fees currently set out in 17 U.S.C. § 708(a)(1)–(9) will no longer be in effect. The Office will publish all new fees in the Code of Federal Regulations, in Copyright Office Circular 4, and on its website.

D. Fees Identified in Other Regulatory Sections

Certain fees relating to submitting royalties under the compulsory licenses, the processing of Uruguay Round Amendments Act filings, the charges assessed for services related to providing information under the Freedom of Information Act, and new services where a final fee has not been established may be included in other sections of the regulations.

E. Effective Date

Congress has had 120 days to review the fees submitted to it on February 1, 1999. No legislation has been enacted barring adoption of these fees. The Office is, therefore, adopting the proposed fee schedule for registration, recordation, and other related services effective July 1, 1999.

List of Subjects**37 CFR Part 201**

Copyright, General provisions.

37 CFR Part 202

Copyright, Registration.

37 CFR Part 203

Freedom of Information Act.

37 CFR Part 204

Privacy.

37 CFR Part 211

Mask work protection, Fees.

In consideration of the foregoing, parts 201, 202, 203, 204, and 211 of 37 CFR chapter II are amended as follows:

PART 201—GENERAL PROVISIONS

1. The authority citation for part 201 continues to read as follows:

Authority: 17 U.S.C. 701.

§ 201.2 [Amended]

2. Amend § 201.2(b)(4) by removing "No charge will be made for this service." and adding in its place "No charge will be made for reviewing these materials; the appropriate search fee identified in § 201.3(c) or § 201.3(d) will be assessed, and the appropriate copying fee identified in § 201.3(c) or § 201.3(d) will be assessed if the claimant wants and is entitled to a copy of the material."

3. Add a new § 201.3 as follows:

§ 201.3 Fees for registration, recordation, and related services, special services, and services performed by the Licensing Division.

(a) General. This section prescribes the fees for registration, recordation, and related services, special services, and services performed by the Licensing Division.

(b) Definitions. For purposes of this section, the following definitions apply:

(1) Registration, recordation, and related service fee. This is the fee for a registration or recordation service that the Office is required to perform under 17 U.S.C., or a directly related service. It includes those services described in section 708(a)(1)–(9) and authorized by Pub. L. 105–80.

(2) Special service fee. This is a fee for a special service not specified in title 17, which the Register of Copyrights may fix at any time on the basis of the cost of providing the service, as provided by 17 U.S.C. 708(a)(10).

(3) Licensing Division service fee. This is a fee for a service performed by the Licensing Division.

(c) Registration, Recordation and Related Service Fees. The Copyright Office has established the following fees for these services:

Registration, recordation and related services	Fees
(1) Basic registrations: Form TX, Form VA, Form PA, Form SE, (including Short Forms), and Form SR	\$30
(2) Registration of a claim in a group of contribution to periodicals (GR/CP)	30
(3) Registration of a renewal claim (Form RE)	
• Claim without Addendum	45
• Addendum	15
(4) Registration of a claim in a Mask Work	75
(5) Registration of a claim in a group of series (Form SE/Group) \$30 minimum	10
(6) Registration of a claim in a group of daily newspapers, and qualified newsletters (Form G/DN)	55
(7) Registration of a restored copyright (Form GATT)	30
(8) Registration of a claim in a group of restored works (Form GATT Group) \$30 minimum	10
(9) Registration of a correction or amplification to a claim (Form CA)	65
(10) Providing an additional certificate of registration	25
(11) Any other certification, per hour	65
(12) Search—report prepared from official records, per hour	65
(13) Search—locating Copyright Office records, per hour	65
(14) Recordation of documents (single title)	50
• Additional titles (per group of 10 titles)	15
(15) Recordation of a notice of intention (NIE) to enforce a restored copyright containing no more than one title	30
• Additional NIE titles (each)	1
(16) Recordation of Notice of Intention to Make and Distribute Phonorecords	12
(17) Issuance of a receipt for a deposit	1

¹ Per issue.

² Per claim.

(d) Special Service Fees. The Copyright Office has established the following fees for special services:

Special services	Fees
(1) Service charge for deposit account overdraft	\$70
(2) Service charge for dishonored deposit account replenishment check	35
(3) Service charge for insufficient fee	1
(4) Appeals	
(i) First appeal	200
Additional claim in related group	20
(ii) Second appeal	500
Additional claim in related group	20
(5) Secure test processing charge, per hour	60

Special services	Fees
(6) Copying charge, 15 pages or fewer	15
Each additional page over 15	.50
(7) Inspection charge	65
(8) Special handling fee for a claim	500
Each additional claim using the same deposit	50
(9) Special handling fee for recordation of a document	330
(10) Full-term storage of deposits	365
(11) Surcharge for expedited Certifications and Documents Section services:	
(i) Additional certificates, per hour	75
(ii) In-process searches, per hour	75
(iii) Copy of assignment or other document, per hour	75
(iv) Certification, per hour	75
(v) Copy of registered deposit:	
First hour	95
Each additional hour	75
(vi) Copy of correspondence file:	
First hour	95
Each additional hour	75
(12) Surcharge for expedited Reference & Bibliography Section searches:	
First hour	125
Each additional hour	95

¹ Reserved

(e) Licensing Division Service Fees. The Copyright Office has established the following fees for certain services performed by the Licensing Division:

Licensing division services	Fees
(1) Recordation of a Notice of Intention to Make and Distribute Phonorecords (17 U.S.C. 115)	\$12
(2) Certificate of Filing a Notice of Intention (17 U.S.C. 115)	8
(3) Filing Fee for Recordation of License Agreements under 17 U.S.C. 118	50
(4) Recordation of Certain Contracts by Cable Television Systems Located Outside the Forty-Eight Contiguous States	50
(5) Initial Notice of Digital Transmission of Sound Recording (17 U.S.C. 114)	20
Amendment of 17 U.S.C. 114 Notice	20
(6) Statement of Account Amendment (Cable Television Systems and Satellite Carriers, 17 U.S.C. 111 and 119)	15
(7) Statement of Account Amendment (Digital Audio Recording Devices or Media, 17 U.S.C. 1003)	20
(8) Using Public Photocopier, per page	.25
Photocopies Made by Licensing Staff, per page	.40
(9) Search, per hour	65
(10) Certification of Search Report	65

4. Amend § 201.4 by revising paragraph (d) to read as follows:

§ 201.4 Recordation of transfers and certain other documents.

(d) Fees. The fee for recordation of a document is prescribed in § 201.3(c).

§ 201.5 [Amended]

5. Amend § 201.5(c)(1) by removing "a fee of \$20" and the accompanying footnote and adding in its place "the appropriate fee identified in § 201.3(c)".

6. In § 201.9, amend paragraph (a) by adding "Licensing Division" after "Copyright Office", by removing "this section" and adding in its place "§ 201.3" and by revising paragraph (b) to read as follows:

§ 201.9 Recordation of agreements between copyright owners and public broadcasting entities.

(b) The fee for recordation of a voluntary license agreement under this

section is the basic recordation fee as prescribed in § 201.3(c).

7. In § 201.10, revise paragraph (f)(2) to read as follows:

§ 201.10 Notices of termination of transfers and licenses covering extended renewal term.

(f) * * *

(2) The fee for recordation of a document is prescribed in § 201.3(c).

8. Amend § 201.12 by revising the first sentence of paragraph (a) and revising paragraph (b) to read as follows:

§ 201.12 Recordation of certain contracts by cable systems located outside of the forty-eight contiguous States.

(a) Written, nonprofit contracts providing for the equitable sharing of costs of videotapes and their transfer, as identified in section 111(e)(2) of title 17 of the United States Code as amended by Pub. L. 94-553, will be filed in the Copyright Office Licensing Division by

recordation upon payment of the prescribed fee. * * *

(b) The fee for recordation of a document is prescribed in § 201.3.

§ 201.18 [Amended]

9. In § 201.18, amend paragraph (e)(1) by removing "a fee of \$12" and by adding in its place "the fee specified in § 201.3(e)", by removing "an additional fee of \$8" and adding in its place "the fee specified in § 201.3(e)", and amend paragraph (e)(3) by removing "a fee of \$8" and adding in its place "the fee specified in § 201.3(e)".

§ 201.19 [Amended]

10. In § 201.19, amend paragraph (e)(7)(ii)(D) by removing "a fee of \$8" and adding in its place "the fee specified in § 201.3(e)" and amend paragraph (f)(7)(iii)(D) by removing "a fee of \$8" and adding in its place "the fee specified in § 201.3(e)".

11. Amend § 201.25 by revising paragraph (d) to read as follows:

§ 201.25 Visual Arts Registry.

(d) Fee. The fee for recording a Visual Arts Registry statement, a Building Owner's Statement, or an updating statement is the recordation fee for a document, as prescribed in § 201.3(c).

12. Amend § 201.26 by revising paragraph (e) to read as follows:

§ 201.26 Recordation of documents pertaining to computer shareware and donation of public domain computer shareware.

(e) Fee. The fee for recording a document pertaining to computer shareware is the recordation fee for a document, as prescribed in § 201.3(c).

§ 201.32 [Removed and Reserved]

13. Section 201.32 is removed and reserved.

PART 202—REGISTRATION OF CLAIMS TO COPYRIGHT

14. The authority citation for part 202 continues to read as follows:

Authority: 17 U.S.C. 702.

§ 202.3 [Amended]

15. Amend § 202.3(b)(4)(ii)(B) by removing "A filing fee of \$20" and adding in its place "The appropriate filing fee, as required in § 201.3(c)".

16. Amend § 202.3(b)(5)(v)(B) by removing "A filing fee of \$10" and adding in its place "The appropriate filing fee, as required in § 201.3(c)".

17. Amend § 202.3(b)(6)(i)(E) by removing "A nonrefundable filing fee of \$40" and adding in its place "The appropriate filing fee, as required in § 201.3(c)".

18. Amend § 202.3(b)(7)(ii)(C) by removing "A fee of \$20" and adding in its place "The appropriate filing fee, as required in § 201.3(c)".

19. Amend § 202.3(b)(8)(vii) by removing "a filing fee of \$10" and adding in its place "the appropriate filing fee, as required in § 201.3(c)".

20. Amend § 202.3(c)(2) by removing "a fee of \$20" and adding in its place "the appropriate filing fee, as required in § 201.3(c)".

§ 202.12 [Amended]

21. Amend § 202.12 (c)(3)(i) by removing "20" each place it appears and adding in its place "30" and adding after "work" in the last sentence "with a minimum fee of US\$30".

22. Amend § 202.12(c)(5)(i) by removing "\$20" and adding in its place "\$30".

23. Amend § 202.12(c)(5)(ii) by adding after "work" in the last sentence "with a minimum fee of \$30".

§ 202.17 [Amended]

24. Amend § 202.17(g)(2)(ii) by removing "a fee of \$20" and adding in its place "the appropriate fee, as required in § 201.3(c)".

§ 202.19 [Amended]

25. Amend § 202.19(f)(3) by removing "a fee of \$4" and adding in its place "the appropriate fee, as required in § 201.3(c)".

§ 202.23 [Amended]

26. Amend § 202.23(e)(1) by removing "at \$365.00" and adding in its place "as prescribed in § 201.3(d)".

27. Amend § 202.23(e)(2) by removing "of \$365.00" and adding in its place "prescribed in § 201.3(d)".

PART 203—FREEDOM OF INFORMATION ACT: POLICIES AND PROCEDURES

28. The authority citation for part 203 continues to read as follows:

Authority: 17 U.S.C. 702; and 5 U.S.C. 552.

§ 203.6 [Amended]

29. Amend § 203.6(a) by removing "section 708 of title 17 U.S.C." and adding in its place "§ 201.3 of this chapter".

30. Amend § 203.6(b)(1) by removing "\$8" and adding in its place "\$25".

31. Amend §§ 203.6(b)(3) and (b)(4) by removing "\$20" each time it appears and adding in its place "\$65".

32. Amend § 203.6(b)(6) by removing "\$20.00" and adding in its place "\$65".

PART 204—PRIVACY ACT: POLICIES AND PROCEDURES

33. The authority citation for part 204 continues to read as follows:

Authority: 17 U.S.C. 702; and 5 U.S.C. 552.

§ 204.6 [Amended]

34. Amend § 204.6(a) by removing "under section 708 of title 17 of the United States Code" and adding in its place "and identified in § 201.3 of this chapter".

PART 211—MASK WORK PROTECTION

35. The authority citation for part 211 continues to read as follows:

Authority: 17 U.S.C. 702 and 908.

36. Amend § 211.3 by revising paragraph (a) to read as follows:

§ 211.3 Mask work fees.

(a) Section 201.3 of this chapter prescribes the fees or charges

established by the Register of Copyrights for services relating to mask works.

Dated: May 20, 1999

Marybeth Peters,
Register of Copyright

Approved by:

James H. Billington,
The Librarian of Congress.

[FR Doc. 99-13736 Filed 5-28-99; 8:45 am]

BILLING CODE 1410-30-P

LIBRARY OF CONGRESS**Copyright Office****37 CFR Part 202**

[Docket No. RM 99-3]

Registration of Claims to Copyright; Group Registration of Daily Newsletters

AGENCY: Copyright Office, Library of Congress.

ACTION: Final rule.

SUMMARY: The Copyright Office of the Library of Congress is adopting a new regulation that permits group registration of daily newsletters under conditions similar to those presently in place for group registration of daily newspapers and for the same fee, but with different deposit requirements. A claimant in daily newsletters that are routinely issued at least two days each week may register these newsletters in a group at a reduced fee, on a single application, if they meet certain requirements. The group registration privilege is contingent upon the claimant meeting the conditions specified in the regulation.

EFFECTIVE DATE: This rule will become effective July 1, 1999.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, P.O. Box 70400, Southwest Station, Washington, DC 20024. Telephone: (202) 707-8380. Telefax (202) 707-8366. Harriet L. Oler, Assistant Register for Legal Education and Special Programs, Telephone: (202) 707-8350. Telefax: (202) 707-8366.

SUPPLEMENTARY INFORMATION: Under section 407 of the Copyright Act of 1976, title 17 of the U.S. Code, the owner of copyright, or of the exclusive right of publication, in a work published in the United States is required to deposit two copies of the work in the Copyright Office for the use or

disposition of the Library of Congress. The deposit is to be made within three months after such publication. Failure to make the required deposit does not affect the copyright in the work, but may subject the copyright owner to fines and other monetary liability if the failure is continued after a demand for deposit is made by the Register of Copyrights.

Section 408 of title 17 requires deposit of material in connection with applications for registration of claims to copyright in unpublished and published works. Subsection 408(c)(1) authorizes the Register of Copyrights to establish by regulation the nature of the deposit that is required. These regulations may require or permit "a single registration for a group of related works."

On December 7, 1990, the Copyright Office issued regulations permitting group registration of serials [55 FR 50556 (Dec. 7, 1990)]; on September 1, 1992, it issued regulations permitting group registration of daily newspapers [57 FR 39615 (Sept. 1, 1992)]; and on March 28, 1995, it issued regulations permitting group registration of daily newsletters [59 FR 15874 (Mar. 28, 1995)]. The regulations adopted in 1990 and 1992 continue to govern group registration of serials other than those daily newsletters qualified to register under this new regulation.

On October 1, 1998, the Copyright Office conducted public hearings prior to proposing increased fees for providing certain services including registration. [Hearing on Proposed Fee Increase, U.S. Copyright Office (October 1, 1998); 63 FR 43426, (Aug. 13, 1998)]. At this hearing, and in response to written comments submitted to the Office during this process, publishers of daily newsletters argued that they should be entitled to a price reduction for registering groups of claims similar to that presently enjoyed by publishers of daily newspapers. The Office agrees that daily newsletters should be treated similarly in terms of required registration fees, but it believes that the deposit requirements for daily newsletters should be different in order to respond to the acquisitions needs of the Library of Congress.

Definition

For purposes of this regulation, a daily newsletter is defined as a serial published and distributed by mail or electronic media (online or telefacsimile) or in any medium including, but not limited to, paper, cassette tape, diskette or CD-ROM. Publication must occur on at least two days each week and the newsletter must contain news or information of interest

chiefly to a special group (for example, trade and professional associations, corporate in-house groups, schools, colleges, or churches).

Requirements

The Copyright Office is now amending its regulation that permits group registration of daily newsletters in order to permit qualified newsletters that meet all of the specified conditions to use the same form and pay the same fee as daily newspapers. Under the regulation, daily newsletters that are published routinely on at least two days each week may be registered in groups at a reduced fee if all other requirements are met. Claimants in works that meet these qualifications may register all newsletters bearing issue dates within a single calendar month under the same continuing title on a single Form G/DN with the deposit specified below. Each issue must be an essentially new collective work or all new issue that has not been published before and must be a work made for hire. The author(s) and claimant(s) must be the same for all of the issues. To accommodate the Library's need for timely receipt of these published materials, registration of the group must be sought within three months from the date of publication of the last issue included in the group registration application. If a claimant wishes to register a claim in a group of daily newsletters that meet the above definition, but is unable to submit the deposit requested by the Library or has failed to seek registration within the prescribed three months from the publication date of the last issue included in the group, that claimant is not eligible for this group registration and may file Form SE or Short Form SE, along with the fee corresponding to the appropriate form.

Deposit

The deposit required for a group of daily newsletters on form G/DN shall be as follows: One complete copy of each issue included in the group must be submitted with the application form. In addition, if the Library of Congress makes a written request before an application for registration is submitted, the claimant must give the Library up to two complimentary subscriptions of the specified newsletter or, at the Library's alternative written request, a single microfilm of the issues included in the group. Any microfilm deposit must consist of positive, 35 mm silver halide microfilm meeting the Library's best edition criteria that reproduces in their entirety all issues published as final editions with issue dates in the designated calendar month.

Effective Date

This regulation and the new procedures it establishes will be applied prospectively only to the issues of daily newsletters first published on or after the effective date of the regulation. The regulation is issued in final form for these reasons: The regulation confers a positive benefit on the public affected; the regulation establishes an optional procedure; other procedures are available for registering newsletters; and the Copyright Office prepared the regulation based upon its experience in administering other group registrations and its review of comments received in response to an earlier request for comments. [63 FR 43426 (Aug. 13, 1998)].

List of Subjects in 37 CFR Part 202

Copyright registration.

Final Regulation

In consideration of the foregoing, the Copyright Office amends 37 CFR part 202 in the manner set forth below:

PART 202—REGISTRATION OF CLAIMS TO COPYRIGHT

1. The authority citation for part 202 continues to read as follows:

Authority: 17 U.S.C. 702, 202.3, 202.19, 202.20, 202.21, and 202.22 are also issued under 17 U.S.C. 407 and 408.

2. In § 202.3, paragraph (b)(8) and the footnote to paragraph (c)(2) are revised to read as follows:

§ 202.3 Registration of Copyright

* * *

(b) * * *

(8) *Group registration of daily newsletters.* Pursuant to the authority granted by 17 U.S.C. 408(c)(1), the Register of Copyrights has determined that, on the basis of a single application, deposit, and filing fee, a single registration may be made for a group of two or more issues of a daily newsletter if the following conditions are met:

(i) As used in this regulation, daily newsletter means a serial published and distributed by mail or electronic media (online or telefacsimile), or in any medium including but not limited to, paper, cassette tape, diskette or CD-ROM. Publication must occur on at least two days each week and the newsletter must contain news or information of interest chiefly to a special group (for example, trade and professional associations, corporate in-house groups, schools, colleges, or churches).

(ii) The works must be essentially all new collective works or all new issues that have not been published before.

(iii) Each issue must be a work made for hire.

(iv) The author(s) and claimant(s) must be the same person(s) or organization(s) for all of the issues.

(v) All the items in the group must bear issue dates within a single calendar month under the same continuing title.

(vi) Deposit. (A). The deposit for newsletters registered under this section is one complete copy of each issue included in the group.

(B). In addition, if requested in writing by the Copyright Acquisitions Division before an application for registration is submitted, the claimant must give the Library of Congress whichever of the following the Library prefers: either as many as two complimentary subscriptions of the newsletter in the edition most suitable to the Library's needs, or a single positive, 35 mm silver halide microfilm

meeting the Library's best edition criteria that includes all issues published as final editions in the designated calendar month.

Subscription copies must be delivered to the separate address specified by the Copyright Acquisitions Division in its request. Subscription copies or a microfilm are not required unless expressly requested by the Copyright Acquisitions Division.

(C) The copyright owner of any newsletter that cannot meet the criteria set out in this section may continue to register on Form SE or Short Form SE.

(vii) Registration is sought within three months after the publication date of the last issue included in the group.

(viii) A Form G/DN shall be submitted for daily newsletters bearing issue dates within a single month, together with one copy of each issue, and a filing fee. The application shall designate the first

and last day that issues in the group were published.

* * *

(c) * * *

(2) * * *

* * *

Dated: May 17, 1999

Marveth Peters,

Register of Copyrights

Approved by

James H. Billington,

Director, Library of Congress

FR Doc. 99-13737 Filed 5-28-99; 8:45 am

BILLING CODE 1410-30-P

1. The second application for group registration of a newsletter is submitted to the Copyright Acquisitions Division of the Library of Congress, 1010 Locust Street, N.E., Washington, D.C. 20540-4001, and dated after the date of the last issue included in the group. The application shall comply with the requirements specified in the preceding paragraphs and one box with those specified on Form G/DN.

Federal Register

Tuesday
June 1, 1999

Part VI

Department of Education

Office of Student Financial Assistance;
Availability of the Amendments to the
Federal Perkins Loan and National Direct
Student Loan Programs Directory of
Designated Low-Income Schools for
Teacher Cancellation Benefits for the
1998-99 School Year; Notice

DEPARTMENT OF EDUCATION

[CFDA 84.037]

**Office of Student Financial Assistance:
Notice of Availability of the
Amendments to the Federal Perkins
Loan and National Direct Student Loan
Programs Directory of Designated
Low-Income Schools for Teacher
Cancellation Benefits for the 1998-99
School Year****AGENCY:** Department of Education.

SUMMARY: The Secretary of Education (the Secretary) announces that the 1998-99 Amendments to the Federal Perkins Loan and National Direct Student Loan Programs Directory of Designated Low-Income Schools (the Directory) have been incorporated into the 1998-99 Directory currently available on the Department of Education's (the Department) website. Under the Federal Perkins Loan and National Direct Student Loan programs, a borrower may have repayment of his or her loan deferred and a portion of his or her loan canceled if the borrower teaches full-time for a complete academic year in a designated elementary or secondary school having a high concentration of students from low-income families. The 1998-99 Directory lists, on a State-by-State and Territory-by-Territory basis, the schools in which a borrower may teach during the 1998-99 school year to qualify for deferment and cancellation benefits. The Amendments to the Directory identify changes in the list of schools that qualify borrowers for teacher cancellation benefits under each of the loan programs.

DATES: The Amendments to the Directory are currently available in electronic format at (1) each institution of higher education participating in the Federal Perkins Loan Program, (2) each of the fifty-seven (57) State and Territory Departments of Education, (3)

each of the major Federal Perkins Loan billing services, (4) the U.S. Department of Education, including its regional offices, and (5) on the Internet at <http://www.ed.gov/studentaid>

FOR FURTHER INFORMATION CONTACT:

Information concerning specific schools listed in the Amendments to the Directory may be obtained from Chrisetta Nelson, Systems Administration Branch, Campus-Based Programs Systems Division, Office of Student Financial Assistance, U.S. Department of Education, 400 Maryland Avenue, S.W., (Portals Building, Room 6200), Washington, D.C. 20202-5447, telephone (202) 708-7738. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

Information concerning deferment and cancellation of a National Direct or Federal Perkins Loan may be obtained from Vanessa Freeman or Gail McLarnon, Program Specialists, Campus-Based Loan Programs Section, Loans Branch, Policy Development Division, Office of Student Financial Assistance, U.S. Department of Education, 400 Maryland Avenue, S.W., (Regional Office Building 3, Room 3045), Washington, D.C. 20202-5447, telephone (202) 708-8242.

Individuals with disabilities may obtain this notice in an alternate format (e.g., Braille, large print, audiotope, and computer diskette) from the contact person listed in the first paragraph of this section.

SUPPLEMENTARY INFORMATION: The Secretary selects schools that qualify a borrower for deferment and cancellation benefits under the procedures contained in the Federal Perkins Loan program regulations in 34 CFR 674.53, 674.54 and 674.55.

The Secretary has determined that, the 1998-99 academic year, full-time teaching in the schools identified by the

1998-99 Amendments to the Directory qualifies a borrower for deferment and cancellation benefits.

The Secretary is providing the Amendments to the Directory to each institution participating in the Federal Perkins Loan Program in an electronic format only. Borrowers and other interested parties may check the Department's website, their lending institution, the appropriate State or Territory Department of Education, regional offices of the Department of Education, or the Office of Student Financial Assistance of the Department of Education concerning the identity of qualifying schools for the 1998-99 academic year. The Office of Student Financial Assistance retains, on a permanent basis, copies of past directories.

Electronic Access to the Notice

Anyone may view this notice, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) on the World Wide Web at either of the following sites:

<http://ocfo.ed.gov/fedreg.htm>

<http://www.ed.gov/news.html>

To use the pdf, you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the pdf, call the U.S. Government Printing Office at (202) 512-1530 or, toll free, at 1-888-293-6498.

Note: The official version of a document is the document published in the **Federal Register**.

Dated: May 26, 1999

Greg Woods,

*Chief Operating Officer for the Office of
Student Financial Assistance*

[FR Doc. 99-13854 Filed 5-28-99; 8:45 am]

BILLING CODE 4000-01-U

Federal Register

**Tuesday
June 1, 1999**

Part VII

Department of Education

**National Institute on Disability and
Rehabilitation Research; Funding Priority
for Fiscal Years 1999–2000 for a
Disability and Rehabilitation Research
Project; Inviting Applications for a New
Disability and Rehabilitation Research
Project for Fiscal Year 1999; Notices**

DEPARTMENT OF EDUCATION

National Institute on Disability and Rehabilitation Research; Funding Priority for Fiscal Years 1999–2000 for a Disability and Rehabilitation Research Project**AGENCY:** Department of Education.**ACTION:** Notice of funding priority for fiscal years 1999–2000 for a Disability and Rehabilitation Research Project.

SUMMARY: The Secretary announces a funding priority for a Disability and Rehabilitation Research Project (DRRP) under the National Institute on Disability and Rehabilitation Research (NIDRR) for fiscal years 1999–2000. The Secretary takes this action to focus research attention on areas of national need. This priority is intended to improve rehabilitation services and outcomes for individuals with disabilities.

EFFECTIVE DATE: This priority takes effect on July 1, 1999.

FOR FURTHER INFORMATION CONTACT: Donna Nangle, U.S. Department of Education, 600 Maryland Avenue, SW, Room 3418, Switzer Building, Washington, DC 20202–2645. Telephone: (202) 205–5880. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–2742. Internet: Donna_Nangle@ed.gov.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiocassette, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION: This notice contains a final priority under the Disability and Rehabilitation Research Projects and Centers Program for a DRRP on leadership training. There is a reference in the proposed priority to NIDRR's Long-Range Plan (LRP). The LRP can be accessed on the World Wide Web at: <http://www.ed.gov/legislation/FedRegister/announcements/1998-4102698a.html>

This final priority supports the National Education Goal that calls for every adult American to possess the skills necessary to compete in a global economy.

The authority for the Secretary to establish research priorities by reserving funds to support particular research activities is contained in sections 202(g) and 204 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 762(g) and 764).

Note: This notice of final priority does not solicit applications. A notice inviting

applications under this competition will be published in the *Federal Register* with or following the publication of this notice of final priority.

Analysis of Comments and Changes

On March 9, 1999 the Secretary published a notice of proposed priority in the *Federal Register* (64 FR 11748). The Department of Education received five letters commenting on the notice of final priority by the deadline date. An analysis of the comments and of the changes in the priority since publication of the proposed priority follows. Generally, we do not address technical and other minor changes—and suggested changes the law does not authorize the Secretary to make.

Priority: Leadership Training

Comment: The areas of training should be broader and include training in interpersonal communication. In addition, the training should increase knowledge across a broad range of disabilities including physical, cognitive, and emotional disabilities.

Discussion: The priority states the goal of the leadership training and the areas of training that may be included in the project. Working toward that goal, applicants have the discretion to propose the specific areas of training. An applicant could propose to provide training in interpersonal communication and increase knowledge across a broad range of disabilities including physical, cognitive, and emotional disabilities. The peer review process will evaluate the merits of the proposal. NIDRR has no basis to require all applicants to provide training on interpersonal communication and knowledge across a broad range of disabilities including physical, cognitive, and emotional disabilities.

Changes: None.

Comment: Four commenters recommended that potential trainees should include not only those who work for community-based organizations, but also those who work with those organizations (e.g., volunteers). One commenter recommended that persons with disabilities who are served by community-based organizations should be eligible to be trainees.

Discussion: NIDRR believes that the pool of eligible trainees should be as large as possible, and therefore agree that all of these individuals could be included, on the condition that they have demonstrated leadership potential. NIDRR agrees that individuals who work with, or who are served by community-based organizations should be eligible to be trainees along with

those who are employed by those organizations.

Changes: The priority has been revised to include as potential trainees those individuals with disabilities who have demonstrated leadership potential, including those from minority backgrounds, who work for, or with, or are served by community-based organizations.

Comment: The entities listed in the first required activity should not be limited to those that are disability-related.

Discussion: The priority's purpose is to increase the leadership competencies of persons with disabilities in order to enhance their ability to improve the lives of persons with disabilities. Eliminating the requirement that cooperating entities must be disability-related would undermine this purpose.

Changes: None.

Comment: Can the priority's focus be expanded to include international exchange activities and participants from other countries?

Discussion: The priority is intended to train emerging leaders who work for, or with, or are served by community-based organizations in cooperation with national, State, and local entities. International exchange activities are outside the scope of the priority, and participation of individuals from other countries is outside the scope of the priority unless they work for, or with, or are served by eligible community-based organizations.

Changes: None.

Disability and Rehabilitation Research Projects

Authority for Disability and Rehabilitation Research Projects (DRRPs) is contained in section 204(a) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 764(a)). DRRPs carry out one or more of the following types of activities, as specified in 34 CFR 350.13–350.19: research, development, demonstration, training, dissemination, utilization, and technical assistance. Disability and Rehabilitation Research Projects develop methods, procedures, and rehabilitation technology that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities. In addition, DRRPs improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended.

Priority: Under 34 CFR 75.105(c)(3), the Secretary gives an absolute preference to applications that meet the

following priority. The Secretary will fund under this competition only applications that meet this priority.

Priority: Leadership Training

Introduction

Chapter Two of NIDRR's proposed LRP (63 FR 57194-57198) describes the increased rate of disability in racial and ethnic minorities. Disability services providers, including providers of vocational rehabilitation services, are studying ways to improve access to, and the provision of, services to minority populations. There is a need for new training approaches in order to increase the number of leaders with disabilities, including those from minority backgrounds, to become effective advocates for all persons with disabilities.

Section 21 of the Rehabilitation Act of 1973, as amended, requires that NIDRR reserve a portion of its appropriated funds for a fiscal year to carry out certain activities. Section 21(b)(2)(A) authorizes NIDRR to make awards to minority entities and Indian tribes to carry out activities authorized under Title II of the Act. Minority entities are defined as a historically Black college or university (a Part B institution, as defined in Section 322(2) of the Higher Education Act of 1965), a Hispanic-serving institution of higher education, an American Indian tribal college or university, or another institution of higher education whose minority student enrollment is at least 50 percent. Consistent with Section 21(b)(2)(A), eligibility to apply for this grant will be limited to minority entities and Indian tribes.

Priority: The Secretary will establish a DRRP to increase the leadership competencies of individuals with disabilities, including those from minority backgrounds, who work for, or with, or are served by community-based organizations, whose purpose is to improve the educational, employment, and socio-economic status of diverse communities of people. The purpose is to enable these trained individuals to maximize the full inclusion and integration of individuals of disabilities of all ages into society, employment, independent living, family support, and economic and social self-sufficiency. The DRRP must:

(a) Identify national, State, and local disability-related education, service, civil rights, and policy entities to participate in the development of leadership training activities and strategies; and

(b) In cooperation with the entities identified under paragraph (a), train

individuals with disabilities who have demonstrated leadership potential, including those from minority backgrounds, who work for, or with, or are served by community-based organizations whose purpose is to improve the educational, employment, and socio-economic status of diverse communities of people. Areas of training may include: service delivery, disability civil rights history and advocacy, management, policy and financial analysis, and establishment of policies and direction for rehabilitation programs.

In carrying out these purposes, the project must:

- Address issues of equal access of minority individuals with significant disabilities to rehabilitation services; and
- Provide training on the philosophy of disability-related self-determination and self-advocacy, development of peer relationships, inclusion, independent living, and peer role models.

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<http://ocfo.ed.gov/fedreg.htm>
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To use the PDF you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the preceding sites. If you have questions about using the PDF, call the U.S. Government Printing Office (GPO) at (202) 512-1530 or toll free at 1-888-293-6498.

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<http://www.access.gpo.gov/nara/index.html>

Applicable Program Regulations: 34 CFR Part 350.

Program Authority: 29 U.S.C. 760-762. (Catalog of Federal Domestic Assistance Number 84.133A, Disability and Rehabilitation Research Projects)

Dated: May 20, 1999.

Judith E. Heumann,
 Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 99-13851 Filed 5-28-99; 8:45 am]

BILLING CODE 4000-01-U

DEPARTMENT OF EDUCATION

[CFDA No.: 84.133A-14]

Office of Special Education and Rehabilitative Services; National Institute on Disability and Rehabilitation Research; Inviting Applications for a New Disability and Rehabilitation Research Project for Fiscal Year 1999

SUMMARY: This notice provides closing dates and other information regarding the transmittal of applications for fiscal year 1999 competition under the National Institute on Disability and Rehabilitation Research—Disability and Rehabilitation Research Project. The purpose of the Disability and Rehabilitation Research Project and Centers Program is to improve the effectiveness of services authorized under the Act. Section 21 of the Rehabilitation Act of 1973, as amended, requires that NIDRR reserve a portion of its appropriated funds for a fiscal year to carry out certain activities. Section 21(b)(2)(A) authorizes NIDRR to make awards to minority entities and Indian tribes to carry out activities authorized under Title II of the Act.

This notice supports the National Education Goal that calls for every adult American to possess the skills necessary to compete in a global economy.

Deadline for Transmittal of Applications: July 16, 1999.

Application Available: June 1, 1999.
Maximum Award Amount Per Year: \$175,000.

Note: The Secretary will reject without consideration or evaluation any application that proposes a project funding level that exceeds the stated maximum award amount per year (See 34 CFR 75.104(b)).

Estimated Number of Awards: 1.

Note: The estimate of funding level and awards in this notice do not bind the Department of Education to a specific level of funding or number of grants.

Project Period: 60 months.

Eligible Applicants: Parties eligible to apply for grants under this program are minority entities and Indian tribes. Minority entities are defined as a historically Black college or university (a Part B institution, as defined in Section 322(2) of the Higher Education Act of 1965), a Hispanic-serving institution of higher education, an American Indian tribal college or university, or another institution of higher education whose minority student enrollment is at least 50 percent.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR),

34 CFR Parts 74, 75, 77, 80, 81, 82, 85, and 86; (b) Disability and Rehabilitation Research Projects and Centers—34 CFR Part 350, particularly Subpart B; and (c) the notice of final funding priority on Leadership Training published elsewhere in this issue of the **Federal Register**.

For Applications Contact: The Grants and Contracts Service Team (GCST), Department of Education, 400 Maryland Avenue SW., Switzer Building, 3317, Washington, D.C. 20202, or call (202) 205-8207. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205-9860. The preferred method for requesting information is to FAX your request to (202) 205-8717.

Individuals with disabilities may obtain a copy of the application package in an alternate format by contacting the GCST. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

FOR FURTHER INFORMATION CONTACT:

Donna Nangle, U.S. Department of Education, 400 Maryland Avenue, S.W., room 3418, Switzer Building, Washington, D.C. 20202-2645. Telephone: (202) 205-5880. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205-2742. Internet: Donna_Nangle@ed.gov

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotope, or computer diskette) on request to the contact person listed in the preceding paragraph.

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Program Authority: 29 U.S.C. 760-762.

Dated: May 26, 1999.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services

[FR Doc. 99-13852 Filed 5-28-99; 8:45 am]

BILLING CODE 4000-01-U

Federal Register

Tuesday
June 1, 1999

Part VIII

**Department of
Education**

34 CFR Part 99

**Family Educational Rights and Privacy;
Proposed Rule**

DEPARTMENT OF EDUCATION**34 CFR Part 99****Family Educational Rights and Privacy****AGENCY:** Department of Education.**ACTION:** Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the regulations implementing the Family Educational Rights and Privacy Act (FERPA). The amendments are needed to implement sections 951 and 952 of the Higher Education Amendments of 1998 (HEA), and to clarify several existing provisions.

DATES: Comments must be received by the Department on or before August 2 1999.

ADDRESSES: All comments concerning these proposed regulations should be addressed to LeRoy Rooker, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202-4605. Comments may also be sent through the Internet to FERPA_Comments@ED.Gov.

FOR FURTHER INFORMATION CONTACT: Ellen Campbell, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202-4605. Telephone: (202) 260-3887.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION:**Invitation To Comment**

Interested persons are invited to submit comments and recommendations regarding these proposed regulations. To ensure that public comments have maximum effect in developing the final regulations, the Department urges commenters to identify clearly the specific section or sections of the proposed regulations that each comment addresses and to arrange comments in the same order as the proposed regulations.

The Secretary particularly requests comments from institutions of postsecondary education on whether the new regulatory definitions of "crime of violence," and "final results" under § 99.39 are sufficiently clear and provide adequate guidance in interpreting and applying the statutory amendment.

The Secretary also particularly requests comments on whether the provision concerning the nonconsensual disclosure of information to parents and guardians under § 99.31(a)(14) is sufficiently clear and whether it provides adequate guidance on this new permissible disclosure.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 2W113, FB-6, 400 Maryland Avenue, SW., Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

On request the Department supplies an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking docket for these proposed regulations. An individual with a disability who wants to schedule an appointment for this type of aid may call (202) 205-8113 or (202) 260-9895. An individual who uses a TDD may call the Federal Information Relay Service at 1-800-877-8339.

To assist the Department in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden, the Secretary invites comments on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Background

These proposed regulations have been reviewed and revised in accordance with the Department's "Principles for Regulating," which were developed to ensure that the Department regulates in the most flexible, most equitable, and least burdensome way possible. These principles advance the regulatory reinvention and customer service objectives of the Administration's National Partnership for Reinventing Government and are essential to an effective partnership with States and localities. The Secretary proposes these regulations and believes they are necessary to implement the law and give the greatest flexibility to local governments and schools. In addition, the regulations minimize burden while protecting parents' and students' rights.

Summary of Major Provisions

The following is a summary of the regulatory provisions the Secretary proposes as necessary to implement the statute (Pub. L. 105-244, effective October 1, 1998), such as interpretations

of statutory text or standards and procedures for the operation of the program. Some of the provisions merely restate statutory language.

The Secretary is not authorized to change statutory requirements. Commenters are requested to direct their comments to the regulatory provisions that would implement the statute.

1. Section 99.1 Applicability

FERPA applies to educational agencies and institutions to which funds are made available under any program which is administered by the Secretary. The proposed clarification of the term "educational agency" is necessary because the phrase "performs service functions" causes confusion with the public. This revision clarifies that FERPA generally applies to educational agencies that have direct administrative responsibilities for the educational services provided by public elementary and secondary schools or by postsecondary institutions.

2. Section 99.3 Definitions

The Secretary proposes to amend the definition of the term "directory information" by adding additional items that may be designated by an educational agency or institution as "directory information" and to clarify the meaning of "dates of attendance." The term "dates of attendance" is intended to refer to the period of time during which an individual attended or was enrolled in an educational agency or institution and not to a student's daily attendance record.

The Secretary also proposes to clarify the definition of sole possession records. The Secretary proposes to provide more detailed guidance on the definition because there has been confusion over the term. Sole possession records are memory aids or reference tools that do not contain information taken directly from a student or records that are used to make decisions about the student.

3. Section 99.5 Rights of Students

The Secretary proposes to provide additional guidance regarding the requirement that a student attending one component of an educational agency or institution does not have rights under FERPA with respect to other components of the same agency or institution to which the individual has applied for admission. This clarification restates § 99.5(c) in a more direct manner in order to explain that an individual who is or has been a student at an agency or institution and who has been rejected for admission by a

component of that agency or institution does not have rights under FERPA with respect to that application for admission.

4. Section 99.31(a)(3) Prior Consent Not Required for Disclosure to Attorney General of the United States

The proposed regulations implement a new statutory provision that permits the disclosure of education records to authorized representatives of the Attorney General of the United States for law enforcement purposes without specific consent of the student.

5. Section 99.31(a)(8) Prior Consent Not Required for Disclosures to Parents of a Dependent Student

The Secretary clarifies that educational agencies and institutions may disclose education records to the parents of a dependent student, as defined in section 152 of the Internal Revenue Code of 1986, without the student's consent. An educational agency or institution may disclose education records to either parent of a dependent student, regardless of which parent claims the student as a dependent.

6. Section 99.31(a)(9)(iv) Prior Consent Not Required for Disclosures That Are Necessary for the Educational Agency or Institution To Defend Itself

A new regulatory provision states that FERPA permits an educational agency or institution to release education records to a court, without a parent's or an eligible student's prior written consent and without a court order or lawfully issued subpoena, if the parent or eligible student has initiated legal action against the school. The disclosure is limited to those records that are necessary for the agency or institution to defend itself in court.

7. Section 99.31(a)(13) and § 99.39 Disclosure of Final Results of Certain Disciplinary Proceedings

The HEA amended the statute to allow a postsecondary institution to disclose the final results of any disciplinary proceeding conducted by the institution against a student who is an alleged perpetrator of a crime of violence if the institution determines, as a result of the proceeding, that the student committed a violation of the institution's rules or policies with regard to that crime.

A new section (§ 99.39) provides guidance to institutions regarding this change, and lists the applicable definitions. The Secretary particularly welcomes comment on this provision.

8. Section 99.31(a)(14) Prior Consent Not Required for Disclosures to Parents and Legal Guardians Regarding Violations of Alcohol or Drug Laws or Rules

The HEA amended the statute to permit postsecondary institutions to disclose to parents and legal guardians of students under the age of 21, without the student's consent, information regarding the student's violation of any Federal, State, or local law, or any rule or policy of the institution governing the use or possession of alcohol or a controlled substance.

In addition to this new provision, the statute already provides that postsecondary institutions may disclose certain information from a student's education records to parents or legal guardians under several exceptions to the prior consent rule. Under § 99.31(a)(8) of the regulations, institutions may release information to parents or guardians, without the student's consent, if the student is a dependent for tax purposes. Also, under § 99.31(a)(10), an institution may release information to a parent or guardian in connection with a health or safety emergency. This provision adds a new exception to the prior consent requirement of FERPA.

Clarity of the Regulations

Executive Order 12866 and the President's Memorandum of June 1, 1998 on "Plain Language in Government Writing" require each agency to write regulations that are easy to understand.

The Secretary invites comments on how to make these proposed regulations easier to understand, including answers to questions such as the following:

- Are the requirements in the proposed regulations clearly stated?
- Do the proposed regulations contain technical terms or other wording that interferes with their clarity?
- Does the format of the proposed regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity?
- Would the proposed regulations be easier to understand if we divided them into more (but shorter) sections? (A "section" is preceded by the symbol "\$" and a numbered heading; for example, § 99.31.)
- Could the description of the proposed regulations in the SUPPLEMENTARY INFORMATION section of this preamble be more helpful in making the proposed regulations easier to understand? If so, how?
- What else could we do to make the proposed regulations easier to understand?

Send any comments that concern how the Department could make these proposed regulations easier to understand to the person listed in the ADDRESSES section of the preamble.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities.

The small entities that would be affected by these proposed regulations are small local educational agencies (LEAs) receiving Federal funds from the Department and certain 4- and 2-year colleges and for-profit postsecondary trade and technical schools with small enrollments that receive federal funds, such as student aid programs under Title IV of the Higher Education Act of 1965. However, the regulations would not have a significant economic impact on the small LEAs affected because the regulations would not impose excessive regulatory burdens or require unnecessary Federal supervision. The regulations would impose minimal requirements to ensure that LEAs comply with the educational privacy protection requirements in FERPA.

Paperwork Reduction Act of 1995

These proposed regulations do not contain any information collection requirements.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the proposed regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

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(Catalog of Federal Domestic Assistance Number does not apply)

List of Subjects in 34 CFR Part 99

Administrative practice and procedure, Education, Information, Privacy, Parents, Records, Reporting and recordkeeping requirements, Students.

Dated: May 25, 1999

Richard W. Riley,

Secretary of Education

The Secretary proposes to amend part 99 of title 34 of the Code of Federal Regulations as follows:

PART 99—FAMILY EDUCATIONAL RIGHTS AND PRIVACY

1. The authority citation for part 99 continues to read as follows:

Authority: 20 U.S.C. 1232g, unless otherwise noted

2. Section 99.1 is amended by revising paragraph (a)(2) to read as follows:

§ 99.1 To which educational agencies or institutions do these regulations apply?

(a) * * *

(2) The educational agency provides administrative control of or direction of public elementary or secondary schools or by postsecondary institutions.

3. Section 99.3 is amended by revising the definition of "Directory information", and by revising paragraphs (b) introductory text and (b)(1) under the definition of "Education records" to read as follows:

§ 99.3 What definitions apply to these regulations?

Directory information. (a)(1) The term means information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed. It includes, but is not limited to, the student's name, address, telephone listing, date and place of birth, major field of study, dates of attendance, grade level, enrollment status (e.g., undergraduate or graduate; full-time or part-time), participation in officially recognized activities and sports, weight and height of members of athletic teams, photograph, degrees, honors and awards received, and the most recent educational agency or institution attended.

(2)(i) "Dates of attendance" refers to the general periods of time during which an individual attended or was enrolled in an educational agency or institution. Examples of "dates of attendance" include an academic year, a spring semester, or a first quarter.

(ii) The term "dates of attendance" does not include daily specific records of a student's attendance at an educational agency or institution. A student's attendance record is not "directory information" and may not be disclosed without consent under FERPA

[Authority: 20 U.S.C. 1232g(a)(5)(A)]

Education records

(b) The term does not include—

(1) Records that are kept in the sole possession of the maker of the record—often called sole possession records—that are not used for purposes other than a memory or reference tool, that are not accessible or revealed to any other person except a temporary substitute for the maker of the record, and that are typically maintained by the school official unbeknownst to other individuals. Records that contain information taken directly from a student or that are used to make decisions about the student are not sole possession records.

4. Section 99.5 is amended by revising paragraph (c) to read as follows:

§ 99.5 What are the rights of students?

(c) An individual who is or has been a student at an educational agency or institution and who has been rejected for admission by a component of that educational agency or institution does not have rights under this part with respect to records collected and maintained in connection with consideration of that application for admission.

5. Section 99.31 is amended by revising paragraph (a)(3), revising paragraph (a)(8), adding paragraph (a)(9)(iv), revising paragraph (a)(13), adding a new paragraph (a)(14), and revising paragraph (b) to read as follows:

§ 99.31 Under what conditions is prior consent not required to disclose information?

(a) * * *

(3) The disclosure is, subject to the requirements of § 99.35, to authorized representatives of—

(i) The Comptroller General of the United States;

(ii) The Attorney General of the United States (for law enforcement purposes);

(iii) The Secretary; or

(iv) State and local educational authorities.

(8)(i) The disclosure is to parents of a dependent student, as defined in section

152 of the Internal Revenue Code of 1986.

(ii) The educational agency or institution may disclose information under paragraph (a)(8)(i) of this section to either parent of a dependent student, regardless of which parent claims the student as a dependent.

(9) * * *

(iv) If a parent or eligible student initiates legal action against the educational agency or institution, the educational agency or institution may disclose to the court, without a court order or subpoena, the student's education records that are necessary for the educational agency or institution to defend itself.

(13) The disclosure is in connection with a disciplinary proceeding conducted by an institution of postsecondary education against a student who is an alleged perpetrator of a crime of violence subject to § 99.39.

(14)(i) The disclosure is to a parent or a legal guardian of a student at an institution of postsecondary education regarding the student's violation of any Federal, State, or local law, or of any rule or policy of the institution, governing the use or possession of alcohol or a controlled substance if—

(A) The student is under the age of 21; and

(B) The institution determines that the student has committed a disciplinary violation with respect to that use or possession.

(ii) Paragraph (a)(14)(i) of this section does not supersede any provision of State law that prohibits an institution of postsecondary education from making the disclosure permitted in this section.

(b) This section does not forbid an educational agency or institution from disclosing, nor does it require an educational agency or institution to disclose, personally identifiable information from the education records of a student to any parties under paragraphs (a)(1) through (11) and (13) through (14) of this section.

6. A new § 99.39 is added to read as follows:

§ 99.39 What conditions apply to disclosure of records pertaining to disciplinary proceedings?

(a) An institution of postsecondary education may disclose the final results of a disciplinary proceeding conducted by the institution concerning an allegation of a crime of violence against a student who is an alleged perpetrator of a crime of violence, without the prior written consent of the student, if the institution determines as a result of that

disciplinary proceeding that the student committed a violation of the institution's rules or policies with respect to that crime.

(b) As used in this part:

Crime of violence, as that term is defined in section 16 of title 18, United States Code, means an offense that has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense. It includes, but is not limited to, the following offenses: criminal homicide,

forcible sex offense, robbery, aggravated assault, and arson, as these terms are defined in appendix E to 34 CFR part 668, as well as burglary of an occupied structure or dwelling and kidnaping.

Final results means only the name of the student charged, the violation committed, and any sanction imposed by the institution on the student.

(c) The institution must not disclose the name of any other student, such as a victim or witness, without the prior written consent of that other student.

(d) This section applies to disclosures made or to requests received by an institution of postsecondary education on or after October 1, 1998.

7. Section 99.63 is revised to read as follows:

§ 99.63 Where are complaints filed?

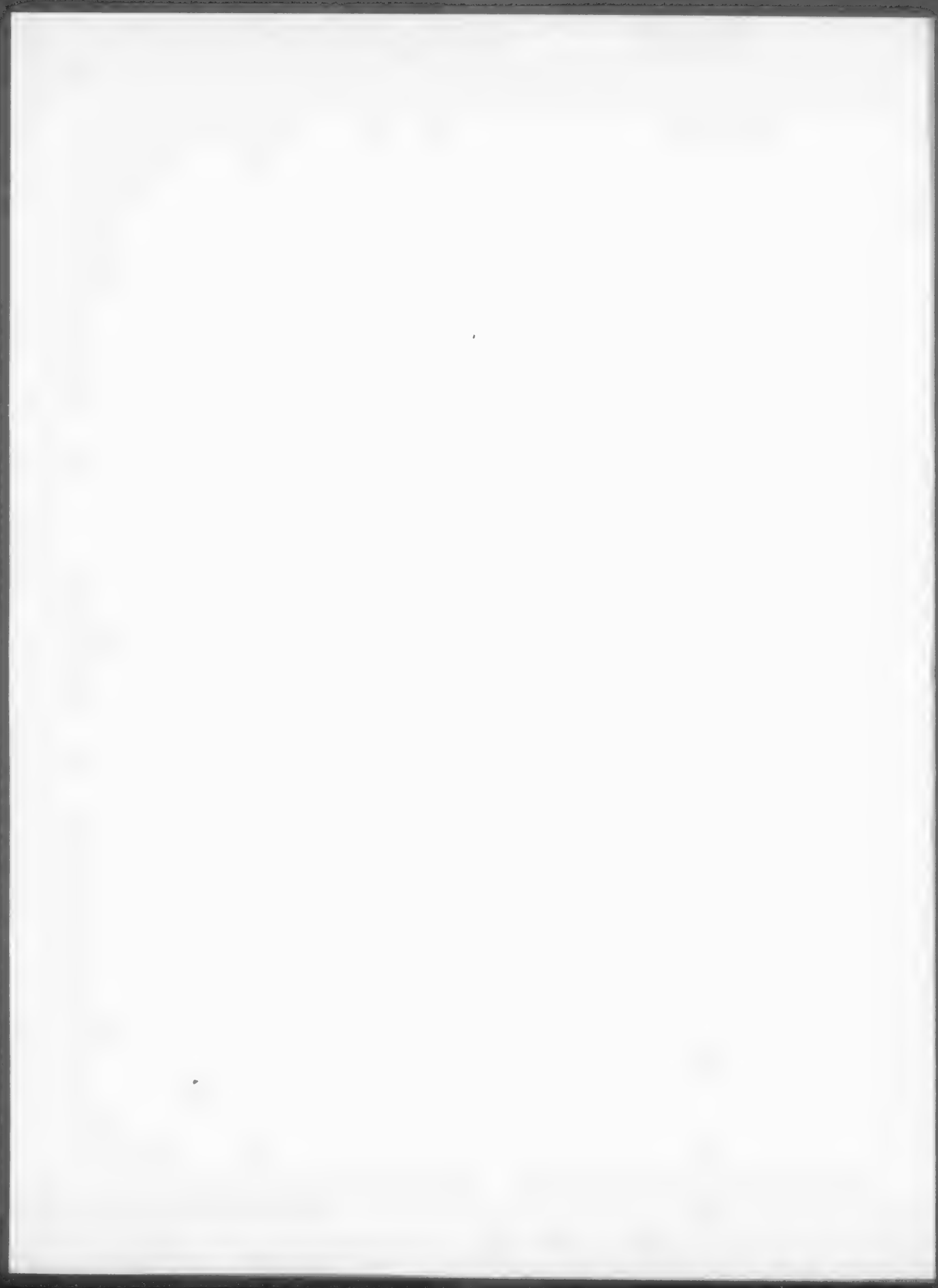
A parent or eligible student may file a written complaint with the Office regarding an alleged violation under the Act and this part. The Office's address is: Family Policy Compliance Office, 400 Maryland Avenue, SW, Washington, D.C. 20202-4605.

(Authority: 20 U.S.C. 1232g(g))

§ 99.64 [Revised]

8. Section 99.64(d) is removed and reserved.

[FR Doc. 99-13853 Filed 5-28-99; 8:45 am]
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Tuesday, June 1, 1999

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FEDERAL REGISTER PAGES AND DATES, JUNE

29207-29536..... 1

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT JUNE 1, 1999**AGRICULTURE DEPARTMENT****Agricultural Marketing Service**

Hazelnuts grown in—
Oregon and Washington; published 4-29-99.
Milk marketing orders
Iowa; published 5-11-99
Olives grown in—
California; published 4-29-99
Spearment oil produced in Far West; published 1-19-99

AGRICULTURE DEPARTMENT**Food and Nutrition Service**

Food stamp program
Personal Responsibility and Work Opportunity
Reconciliation Act of 1996; implementation—
Retailer integrity, fraud reduction, and penalties
published 4-30-99

AGRICULTURE DEPARTMENT**Grain Inspection, Packers and Stockyards Administration**

Grain standards
Rye; published 4-23-98

COMMERCE DEPARTMENT**National Oceanic and Atmospheric Administration**

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202-523-6641. This list is also available online at <http://www.nara.gov/fedreg>.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202-512-1808). The text will also be made available on the Internet from GPO Access at <http://www.access.gpo.gov/nara/index.html>. Some laws may not yet be available.

H.R. 432/P.L. 106-29

To designate the North/South Center as the Dante B. Fascell North-South Center. (May 21, 1999; 113 Stat. 54)

H.R. 669/P.L. 106-30

To amend the Peace Corps Act to authorize appropriations for fiscal years 2000 through 2003 to carry out that Act, and for other purposes. (May 21, 1999; 113 Stat. 55)

H.R. 1141/P.L. 106-31

1999 Emergency Supplemental Appropriations Act (May 21, 1999; 113 Stat. 57)

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Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

²The July 1, 1985 edition of 32 CFR Parts 1-189 contains a note only for Parts 1-39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1-39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

The July 1, 1985 edition of 41 CFR Chapters 1-100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

⁴No amendments to this volume were promulgated during the period July 1, 1997 to June 30, 1998. The volume issued July 1, 1997, should be retained.

⁵No amendments to this volume were promulgated during the period January 1, 1997 through December 31, 1997. The CFR volume issued as of January 1, 1997 should be retained.

⁶No amendments to this volume were promulgated during the period April 1, 1997, through April 1, 1998. The CFR volume issued as of April 1, 1997 should be retained.

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June 3	June 18	July 6	July 19	August 2	September 1
June 4	June 21	July 6	July 19	August 3	September 2
June 7	June 22	July 7	July 22	August 6	September 7
June 8	June 23	July 8	July 23	August 9	September 7
June 9	June 24	July 9	July 26	August 9	September 7
June 10	June 25	July 12	July 26	August 9	September 8
June 11	June 28	July 12	July 26	August 10	September 9
June 14	June 29	July 14	July 29	August 13	September 13
June 15	June 30	July 15	July 30	August 16	September 13
June 16	July 1	July 16	August 2	August 16	September 14
June 17	July 2	July 19	August 2	August 16	September 15
June 18	July 6	July 19	August 2	August 17	September 16
June 21	July 6	July 21	August 5	August 20	September 20
June 22	July 7	July 22	August 6	August 23	September 20
June 23	July 8	July 23	August 9	August 23	September 21
June 24	July 9	July 26	August 9	August 23	September 22
June 25	July 12	July 26	August 9	August 24	September 23
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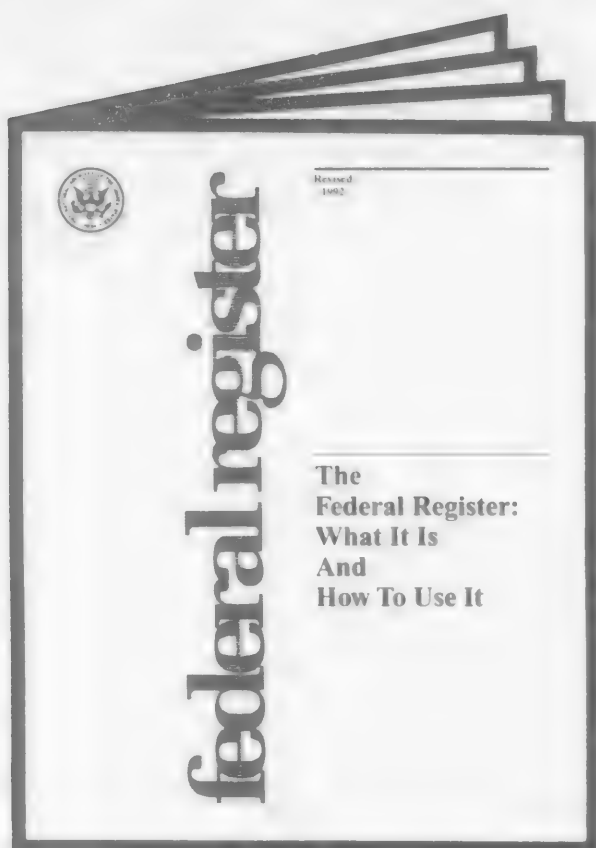
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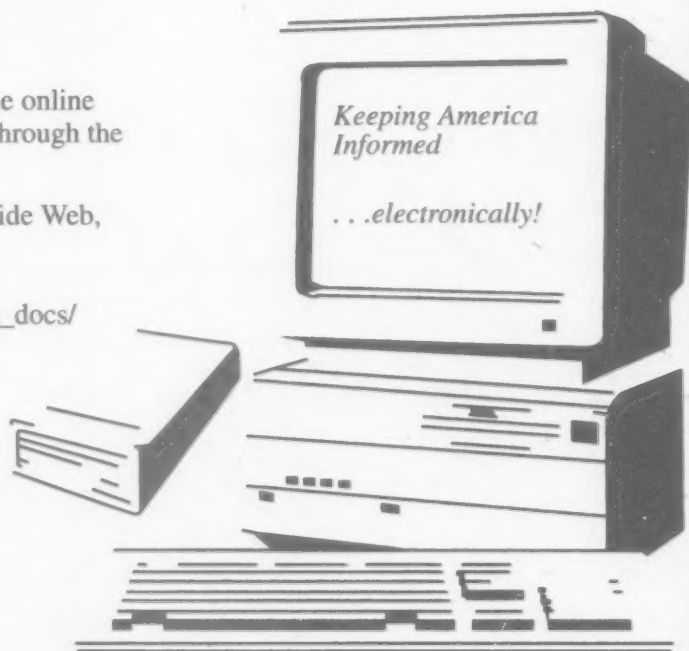
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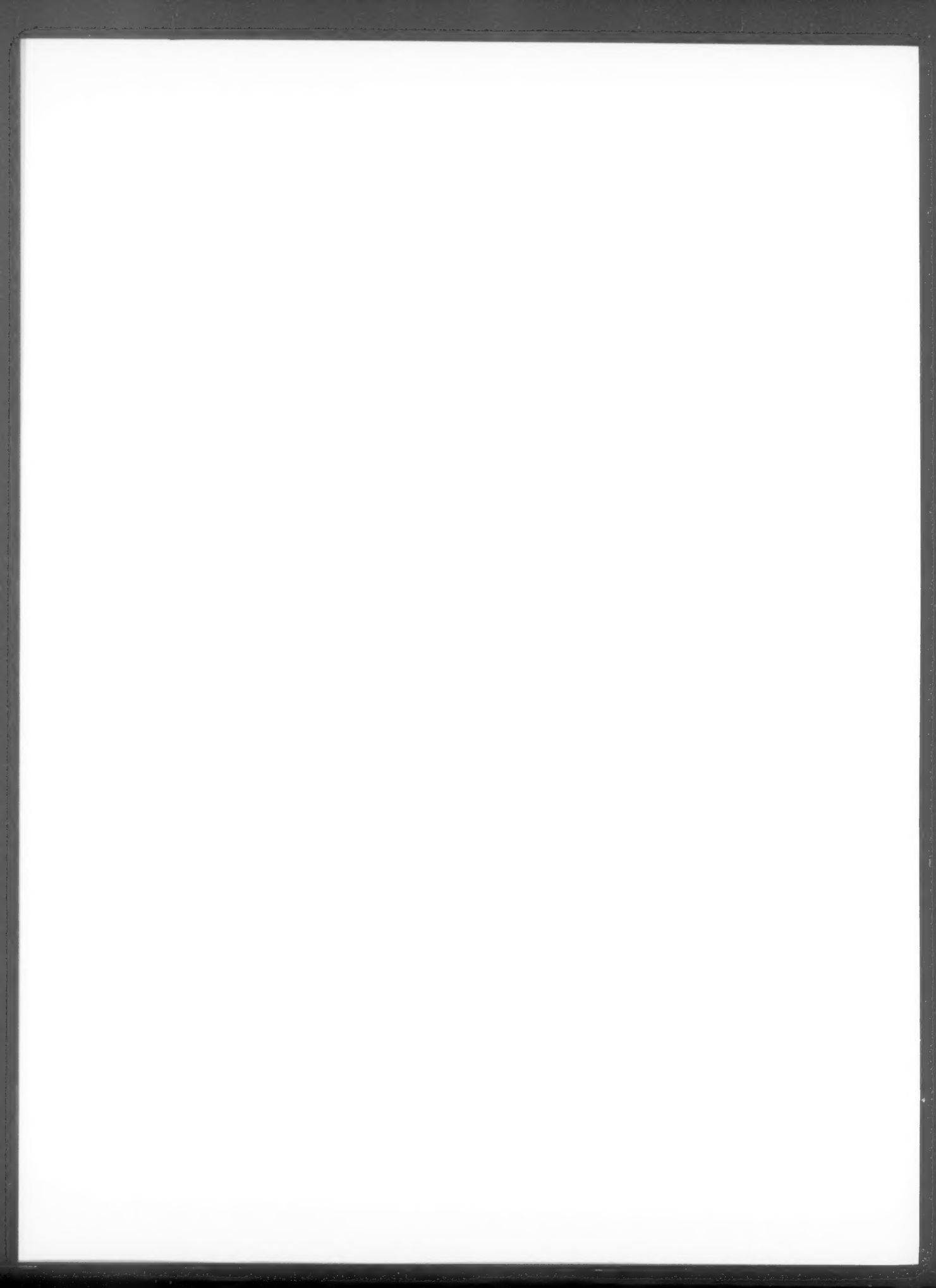


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